



Republika e Kosovës · Republika Kosovo · Republic of Kosovo
Institucioni i Avokatit të Popullit · Institucija Ombudsmana · Ombudsperson Institution

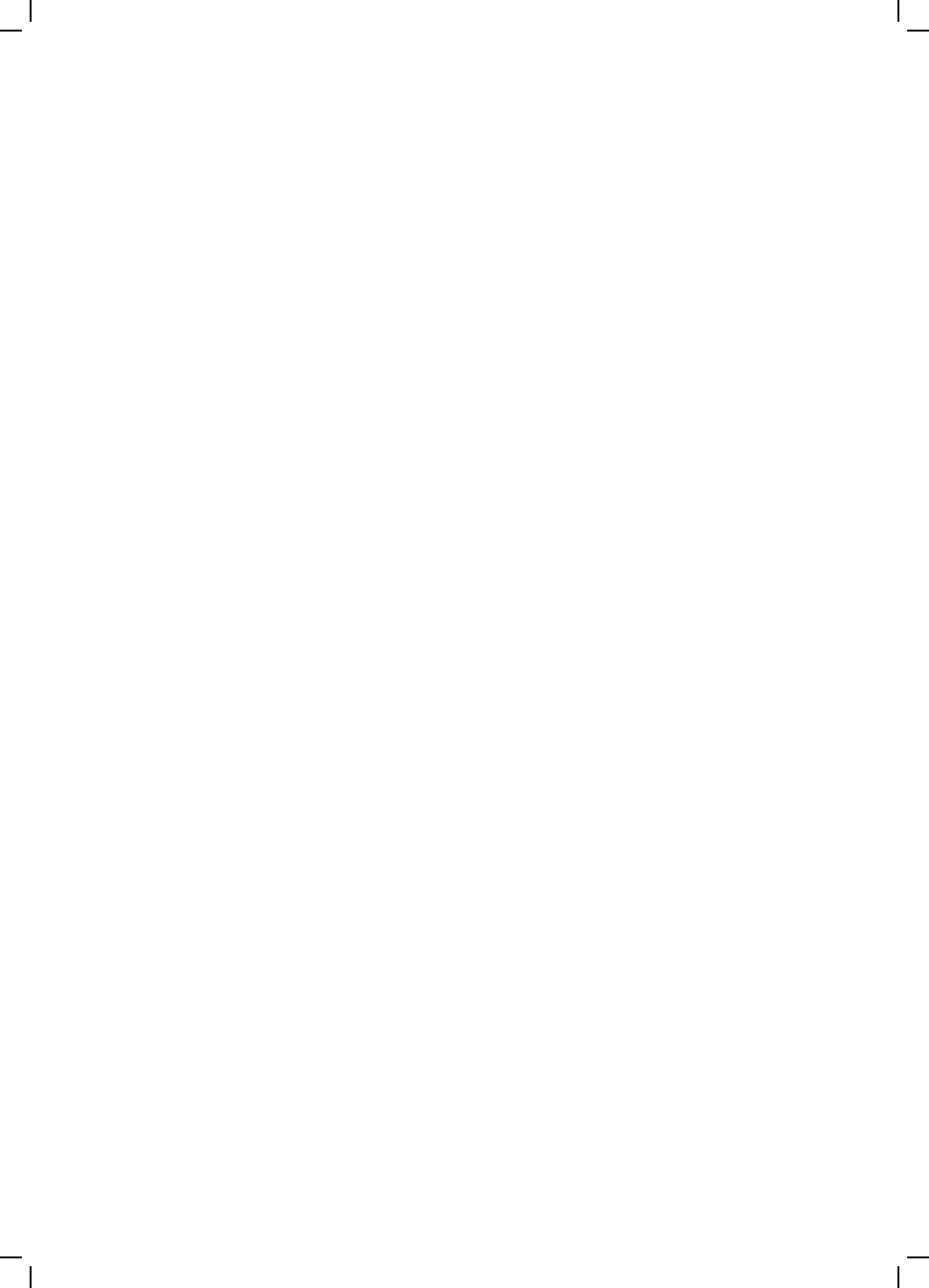


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Speech of the Ombudsperson

Dear members of the Assembly of the Republic of Kosovo

The Ombudsperson, in accordance with Article 135 of the Constitution of the Republic of Kosovo and Article 29 of Law no. 05/L-019 for the Ombudsperson, on March 29, 2024, presents to the Assembly of the Republic of Kosovo, the Annual Report on the state of human rights for the year 2023. The report enables the Ombudsperson to present to the deputies of Assembly of the Republic of Kosovo, violations of human rights by public authorities and the difficulties faced by citizens in realizing their rights. Also, it presents the findings and findings of the Ombudsperson as well as the recommendations for the public authorities, when it has determined that there are violations, as well as informs the Assembly and the public about the level of implementation of the recommendations and the measures taken by the authorities in order to restore the right to violated or violated.

The report contains an analysis and assessment of the state of human rights and freedoms in the Republic of Kosovo and is the result of investigating cases, reviewing and evaluating citizen complaints, cases investigated ex officio, initiated for violations systematic, on the basis of information provided by civil society organizations, cases reported by the media and any other source of information, leading to the suspicion that there is a possibility that human rights and freedoms are being violated by public authorities.

An institutional culture has been created to respect the constitutional obligations to respond to the requests of the Ombudsperson and to present all the documents and information requested, in accordance with the law. The situation is not the same in the implementation of the recommendations of the Ombudsperson, because the country is still at an unsatisfactory stage of fulfilling and implementing the recommendations of the Ombudsperson by the authorities addressed to them. There has been a continuous increase in the implementation of recommendations, so that the level of implementation of recommendations has reached 28%, which is significantly higher than in previous years. However, more commitment and dedication is required to increase implementation until reaching the level where all recommendations are implemented.

In 2023, the Ombudsperson received 1660 complaints from the citizens of the Republic of Kosovo, with complaints about violations of human rights and freedoms by public authorities in the Republic of Kosovo. From the cases examined during this year, 836 recommendations were addressed to the authorities, of which 300 are recommendations from investigations completed this year, while 536 are recommendations carried over from the previous year, with a deadline for implementation in the year for which it is reported.

From the review of the complaints, it can be seen that the largest number of them are related to: the right to a fair and impartial trial, the right to legal remedies, the right to work and exercise the profession, health and social protection, with the protection of property, with equality before the law, with the rights of the accused, with the rights of the child, and so on.

From the data presented in the report, it can be observed that even this year there was a large number of laws that were referred to the Constitutional Court for evaluation. This is as a result of the lack of public consultations, the lack of communication and the non-inclusion of comments in the laws proposed for approval, as well as the non-addressing of concerns raised by stakeholders at the stage of their drafting.

The situation created in the municipalities of the north of the country, after the resignation of the Serbian representatives from their jobs; early elections for the four municipalities in the north of the country; protests due to dissatisfaction with the elections of mayors; the violence of protesters; attack on journalists, reporters and members of KFOR; as well as the terrorist attack on members of the Kosovo Police, in September 2023, have created a serious situation and tensions in this part of the country, which has also influenced the increase in the number of complaints from citizens, who belong to the Serbian community.

Persons with disabilities have continued to face insufficient policies to improve respect for their rights. From the cases handled by the OIK, it has been established that persons with disabilities are discriminated against on the basis of disability in relation to respecting the right to access public spaces and facilities, discrimination in employment as well as anonymous treatment, for due to the reassessment of the disability to recognize the status of paraplegic and tetraplegic persons, contrary to Law no. 05/L-067. An issue that undoubtedly continues to be worrying is the large number of children with disabilities who are outside the education process, then the low level of education quality, the lack of services, the lack of personal assistants, and so on.

Domestic violence and gender-based violence has continued to record a high number of reported cases, which proves that it is one of the ongoing problems of our society. The Ombudsperson, during the reporting year, has raised as a concern the protection of women's property rights, mainly based on the very low participation of women in the division of joint property created during marriage, joint family property and participation in property rights based on inheritance.

Delays in court proceedings and the lack of a legal mechanism for the protection of the right to trial in a reasonable time frame, which would enable the parties to be compensated for the material damage caused, has influenced that even this year the number of most of the complaints received at the OIK were related to the denial of the right to a fair trial, due to the delay in court proceedings. Despite the measures taken by the justice system, the situation remains disturbing. In this direction, it can be observed that bad governance and the lack of taking measures to avoid many situations that forced citizens to seek judicial protection for the realization of their rights guaranteed by law (such as the case with the rights that arise from the General Collective Contract. Currently there are many similar cases that can burden the court with an enormous number of cases, such as the non-implementation of the harmonization of the amount of pensions, as required by the provision of Article 14 of Law No. 04/L-131 then non-fulfilment of the obligations according to the judgment for the compensation of the citizens for the invoicing of the energy consumed in the municipalities of the north, and so on.).

The right to non-discrimination continues to be denied to many categories of citizens, especially those with a heavier social and economic status, children, persons with disabilities and many other social groups. The citizens, who do not have a job and do not realize income, continue to live in extremely difficult conditions and without any support from the state, despite the fact that they are in this condition due to the inability to secure a job.

Even this year, the Economic and Social Council continued to be dysfunctional, therefore many issues related to the right to work, such as: the absence of a collective contract, occupational safety and health, the non-implementation of the Law on Health Insurance, the absence of a list of occupational diseases, non-implementation of the Law on Family and Disability Pensions of Employees, and so on.

The Ombudsperson, from the perspective of human rights, has assessed how far the institutions of the Republic of Kosovo have been in fulfilling their obligations regarding the crimes committed during the war in Kosovo and ensuring justice for the victims of these crimes. . From the findings, it was established that the institutions have not fulfilled their obligations towards the victims in providing justice for war crimes against humanity. Also, the state has not fulfilled its obligations towards the victims when it comes to collecting and documenting facts on war crimes. So the right to know about its citizens - victims of the war in Kosovo - has not been fulfilled.

In addition to the commitments in the exercise of the mandate and the constitutional role, the Ombudsperson has continued to have an increased commitment in international relations, as an opportunity that, in addition to the exchange of experiences and information on the regional and global flows of issues that are important for rights of man, to have a role in promoting the achievements of our country by showing the degree of democracy and the level of respect for standards that guarantee respect for one's rights and freedoms, the legal state and the rule of law. In this regard, it should be noted that the Institution of the Ombudsperson of the Republic of Kosovo, in co-organization with the Association of Ombudsperson of the Mediterranean (AOM), was the host of the 12th Annual Meeting and General Assembly. In the framework of this meeting, a conference was organized with the theme "Integrity and Independence of Ombudsperson Institutions - Durability in the midst of Challenges". This event enabled the exchange of experiences with the participation of 17 member states (Albania, Bosnia and Herzegovina, Cyprus, Finland, Greece, Israel, Malta, North Macedonia, Palestine, Slovenia, Turkey, Croatia, Egypt, the Kingdom of Monaco, Denmark, Belgium and Italy).

Dear MPs,

In conclusion of my speech, I emphasize that the Institution of the Ombudsperson is dedicated to the protection of human rights and freedoms from illegal actions or inactions of public authorities, continuing to be strong in its constitutional role.



The mandate of the Ombudsperson

The mandate of protection of human rights

The Ombudsperson exercises the mandate of protecting human rights from illegal and irregular actions or inactions of public authorities through the mechanism of investigating cases presented by complainants, ex officio investigation of possible violations, contesting an administrative act for the protection of the public interest, giving general recommendations for the functioning of the judicial system, giving opinions in the capacity of friend of the court (*amicus curie*), giving recommendations in cases of procrastination of court procedures, leading the mediation and reconciliation procedure, providing assistance to victims of discrimination, providing recommendations to public institutions for the implementation of obligations in the field of prohibition of discrimination and equality, referring cases to the Constitutional Court and other mechanisms that are determined by special laws.

The mandate of supervision of respect for human rights

The Ombudsperson exercises the mandate of supervising the respect of human rights through the mechanism of monitoring court cases, where the parties have the status of the alleged victim of the violation of human rights, or according to the official duty it is considered that there may be a systematic violation of human rights; through the mechanization of the obligation of public authorities to respond to the requests of the Ombudsperson; monitoring the implementation of the recommendations given by the Ombudsperson; supervision of

the standard of drafting legislation in terms of human rights definitions and compatibility with the Constitution; monitoring the implementation of laws that focus on human rights and other mechanisms that are determined by special laws.

The mandate promoting human rights

The Ombudsperson exercises the mandate of promoting human rights through the mechanism of raising the awareness of public opinion and public institutions about human rights and fundamental freedoms, through education, trainings and lectures, publishing opinions and brochures presenting the position of the Ombudsperson for certain issues, declarations for the implementation of certain measures, the organization of open days for human rights, the organization of conferences, thematic round tables, cooperation and coordination of work with social partners, exchange of visits with counterpart institutions, presenting in the media the opinions of the Ombudsperson and other mechanisms that are determined by special laws.

The Mandate as a National Mechanism for the Prevention of Torture

The Ombudsperson exercises the mandate of the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatments and Punishments, through regular and unannounced visits to all places where persons deprived of their liberty are held, including police detention, detention, stay in health institutions, customs detention, immigration detention and any other place where human rights and freedoms are suspected to be violated. In accordance with the Law on the Ombudsman, it provides recommendations for the compatibility of laws and other acts with the Constitution and with international standards in the prevention of torture. NMPT cooperates with international, local and other mechanisms

that are determined by a special law in the field of torture prevention.

The mandate as an equality mechanism

The Ombudsperson exercises its mandate as an equality mechanism for the promotion, monitoring and support of equal treatment without discrimination on the grounds protected by the Law on Gender Equality and the Law on Protection from Discrimination, as well as in accordance with the Law on the Ombudsperson. The Ombudsperson exercises such a mandate through the supervision of the implementation of the Law on Protection from Discrimination, the investigation of cases of discrimination, the promotion of good practices of equality, informing the public about cases of discrimination, handling cases related to gender discrimination, as well as cooperates with social partners, local and international non-governmental organizations.

Statistical summary of complaints and cases

In 2023, the Ombudsperson received 1660 complaints from the citizens of the Republic of Kosovo, alleging violations of human rights and freedoms by public authorities in the Republic of Kosovo.

From the examination of complaints submitted by citizens, it is observed that the largest number of them are related to: *the right to a fair and impartial trial, the right to legal remedies, the right to work and exercise the profession, health protection and social, property protection, equality before the law, the rights of the accused, the rights of children, and so on.*

In the following tabular presentations, the notes on the total number of complaints received according to the ethnicity of the complainants, gender, responsible public authorities to which the complaints were submitted, and the number of cases decided as completed/closed are presented in more detail, the number of reports and recommendations published to public authorities and the applicability of the recommendations.

Table 1. Complaints submitted to the Ombudsperson in 2023

Total number of complaints filed	1660
Number of persons involved in these complaints	4296
Ethnicity of the complainants	
Albanian	1409
Serbian	154
Bosniak	23
Ashkali	22
Roma	19
Turkish	11
Egyptian	7
Gorani	2
Others	13
Gender of the complainants	
Male	1162
Female	498
The responsible public authorities to which the complaints are addressed (a complaint may have more than one responsible party).	
Court	474
Ministries	448
Municipalities	235
State Prosecutor	73
Police	59

Public enterprises	48
Private Person	45
Private Companies	32
Foreign authorities	11
Kosovo Privatization Agency	11
Others	340

Table 2. The number of complaints submitted, according to chapter II of the Constitution, Fundamental Rights and Freedoms (a complaint may include several rights and freedoms)

The right to a fair and impartial trial	451
The right to remedies	419
The right to work and practice the profession	392
Health and social protection	275
Protection of property	169
Equality before the law	112
Rights of the accused	95
The rights of children	50
The right to education	39
Prohibition of torture, cruel, inhuman or degrading treatment	33
Human dignity	25
The right to marriage and family	21
Environmental responsibility	15
Freedom of movement	14
The right of access to public documents	12
The right to life	10
The right to privacy	7
Freedom of association	5
The right to freedom and security	5
Freedom of belief, conscience and religion	4
Cases for mediation	3
Freedom of expression	3
Judicial protection of rights	3
Freedom of the Media	3
The others	2

Table 3. Complaints decided as inadmissible

Number of inadmissible complaints	1022
Inadmissible complaints, according to the articles of the Law on the Ombudsperson	
In use of legal remedies - Article 22, item 1.3	329
There are no violations, maladministration - Article 22, item 1.1	229
Non-use of legal remedies - Article 22, item 1.4	221
Out of jurisdiction - Article 21, item 1.3.1	169
Lack of interest, failure of the party - Article 22, item 1.2	49
The report has been published ¹ - Article 24, item 3	15
Submitted after the statutory deadline - Article 21, item 1.3.2	4
Abuse of the right of appeal - Article 21, item 1.3.4	3
Anonymous complaint - Article 21, item 1.3.3	3

Table 4. Complaints pending for consideration

Number of complaints pending for consideration	4
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Table 5. Complaints determined to be admissible for investigation

The number of complaints decided as acceptable for investigation	654
The number of investigative cases initiated by the AP (Ex officio)	39
Ethnicity of complainants based on investigated complaints	
Albanian	493
Serbia	126
Bosniak	8
Roma	7
Turkish	7
Ashkali	5
Egyptian	3
Others	5
Gender of the complainants, based on the complaints investigated	
Male	461
Female	193
Public authorities responsible for investigated complaints (a complaint may have more than one responsible party)	
Court	221
Ministries	152
Municipalities	87
State Prosecutor	31

¹ Regarding the appeal claims in these cases, the Ombudsperson has published Reports with recommendations

Police	25
Public Enterprises	17
Private Person	4
Kosovo Privatization Agency	3
Private Companies	3
Foreign authorities	2
Others	185

Table 6. The number of complaints investigated, according to chapter II of the Constitution, Fundamental Rights and Freedoms (a complaint may include several rights and freedoms)

The right to work and exercise the profession	227
The right to a fair and impartial trial	215
The right to remedies	132
Equality before the law	85
Health and social protection	65
Protection of property	51
The rights of children	31
The right to education	21
Rights of the accused	16
Prohibition of torture, cruel, inhuman or degrading treatment	14
Human dignity	12
Environmental responsibility	12
The right to marriage and family	10
The right to life	6
Freedom of association	4
Freedom of movement	3
The right to privacy	3
Freedom of belief, conscience and religion	3
The right of access to public documents	3
Freedom of expression	3
The right to freedom and security	2
Others	4

Table 7. The number of ex-officio cases, according to chapter II of the Constitution, Fundamental Rights and Freedoms (a complaint may include several rights and freedoms)

The rights of children	9
The right to work and exercise the profession	8
Equality before the law	7
Health and social protection	6
Environmental responsibility	6

The right to education	4
The right to a fair and impartial trial	4
Prohibition of torture, cruel, inhuman or degrading treatment	4
Protection of property	3
The right to legal remedies	2
Human dignity	2
Freedom of movement	1

Table 8. Complaints decided upon completion of investigations (include complaints from 2023 and previous years)

The total number of complaints completed/closed	553
Completed/closed complaints, according to the articles of the Law on the Ombudsperson	
Resolved in accordance with the complainant's request - Article 21, item 1.5	216
Unacceptable, there is no violation, maladministration - Article 22, item 1.1	146
Inadmissible, in the use of legal remedies - Article 22, item 1.3	65
Closed with a report ² - Article 24, item 3	59
Unacceptable, failure to use legal remedies - Article 22, item 1.4	30
Closed due to lack of interest of the complainant, failure of the party - Article 22, item 1.2	26
Inadmissible, out of jurisdiction - Article 21, item 1.3.1	11

Table 9. Recommendation Reports, Recommendation Letters, Amicus Curiae, Opinions

Reports on investigated complaints (from citizen complaints)	16
Reports on investigative cases initiated by the PA, Ex officio	12
Reports of the NPM	4
Letter of recommendations for investigated complaints (from citizen complaints)	2
Recommendations in Reports and recommendation letters	300
Amicus Curiae	1
Opinions	1
Request by the Ombudsperson for the Constitutional Court	1
Comments of the Ombudsperson for the Constitutional Court	5

Table 10. Ex officio report no. 577/2021, sexual and reproductive health rights in the Republic of Kosovo³

Recommendations in ex officio Report no. 577/2021, sexual and reproductive health rights in the Republic of Kosovo	536
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² Regarding these complaints, the Ombudsperson has published reports with recommendations

³ On December 30, 2022, ex officio Report no. 577/2021, sexual and reproductive health rights in the Republic of Kosovo, through which 536 recommendations were addressed to the authorities. These recommendations were not evaluated for implementation in 2022 because they were addressed on the last day of the year, therefore, they were monitored and evaluated for implementation during 2023.

Table 11. The applicability of the recommendations of the Ombudsperson, by the responsible public authorities

Responsible authority	Implemented recommendations	Partly implemented recommendations	Non-implemented recommendations	Recommendations Awaiting Implementation
Presidency of the Republic of Kosovo	0	0	0	1
Assembly of the Republic of Kosovo	0	0	0	2
Government of the Republic of Kosovo	2	0	0	7
Ministry of Internal Affairs and Office of the Prime Minister/ZQM	0	0	0	1
Ministry of Justice	5	4	0	12
Ministry of Internal Affairs	0	0	0	3
Ministry of Education, Science, Technology and Innovation	5	0	0	12
Ministry of Finance, Labor and Transfers	1	0	0	9
Ministry of Culture, Youth and Sports	1	0	0	2
Ministry of Foreign Affairs and Diaspora	0	0	0	1
Ministry for Communities and Returns	0	1	0	1
Ministry of Environment, Spatial Planning and Infrastructure	0	0	0	6
Ministry of Industry, Enterprise and Trade	0	0	0	1
Ministry of Economy	0	0	0	1
Kosovo Police	5	0	0	0
Kosovo Institute for Public Administration	0	0	0	1
Ministry of Health - Hospital, Clinical and University Service of Kosovo	0	2	0	7
Hospital, Clinical and University Service of Kosovo	0	0	0	2
Central Bank of the Republic of Kosovo	0	0	0	1
Institute of Forensic Medicine	0	0	0	2
Kosovo Agency for Forensics	1	0	0	1
National Audit Office	0	0	0	1
University of Prishtina	0	0	0	1
Accreditation Agency of Kosovo	1	0	0	1
Agency for the Management of Memorial Complexes of Kosovo	0	0	0	1
Government Commission for Missing Persons	0	0	0	1
Prosecution Council of Kosovo	5	0	0	1
The Judicial Council of Kosovo	0	0	0	1
SCSCK	1	0	0	0
Special Prosecutor's Office of the Republic of Kosovo	0	0	0	1

court of Appeals	1	0	0	1
Basic Court in Pristina	3	0	0	8
Academy of Law	0	0	0	1
Municipality of Prishtina	1	0	0	12
Municipality of Prizren	2	0	0	10
Municipality of Ferizaj	0	0	0	10
Municipality of Peja	0	0	0	1
Municipality of Skenderaj	0	0	0	5
Municipality of Podujeva	0	0	0	5
Municipality of South Mitrovica	2	0	0	1
Municipality of North Mitrovica	0	0	0	3
Municipality of Vushtrri	0	0	0	5
Municipality of Fushë Kosova	0	0	0	4
Municipality of Glogoci	0	0	0	3
Municipality of Gjakova	2	0	0	2
Municipality of Gjilan	0	0	0	5
Municipality of Malisheva	0	0	0	3
Municipality of Deçan	0	0	0	4
Municipality of Klina	0	0	0	4
Municipality of Suhareka	0	0	0	3
Municipality of Rahovec	0	0	0	2
Municipality of Istog	0	0	0	4
Municipality of Shtime	0	0	0	3
Municipality of Junik	1	0	0	3
Municipality of Kaçanik	0	0	0	3
Municipality of Lipjan	2	0	0	2
Municipality of Viti	0	0	0	4
Municipality of Graçanica	0	0	0	4
Municipality of Obiliq	0	0	0	7
Municipality of Kamenica	0	0	0	5
Municipality of Han te Elezit	0	0	0	4
Municipality of Dragash	0	0	0	4
Municipality of Shterpce	0	0	0	5
Municipality of Partesh	0	0	0	6
Municipality of Klllokot	0	0	0	4
Municipality of Ranillugi	0	0	0	4
Municipality of Novobërda	0	0	0	4
Municipality of Mamusha	0	0	0	4
Municipality of Leposaviq	0	0	0	3

Municipality of Zveçan	0	0	0	3
Municipality of Zubin Potok	0	0	0	3
TOTAL	41	7	0	252

Table 12. The applicability of the recommendations from the responsible public authorities regarding the ex officio Report no. 577/2021, sexual and reproductive health rights in the Republic of Kosovo

Responsible authority	Implemented recommendations	Partly implemented recommendations	Non-implemented recommendations	Recommendations Awaiting Implementation
Assembly of the Republic of Kosovo	0	0	3	1
Government of the Republic of Kosovo	1	0	0	1
Kosovo Statistics Agency	1	0	0	0
Healthy ministry	7	10	1	8
Health Inspectorate	0	1	0	5
Pharmaceutical Inspectorate	0	0	0	2
Sanitary Inspectorate	0	0	0	2
Ministry of Education, Science, Technology and Innovation	0	0	0	1
Inspectorate of Education	0	0	0	1
National Institute of Public Health of Kosovo	2	1	0	3
Hospital, Clinical and University Service of Kosovo	9	2	0	4
Municipal Directorate for Health and Social Welfare - Deçan	0	0	2	0
Main Center of Family Medicine - Deçan	0	0	11	0
Municipal Directorate for Health and Social Welfare - Dragash	0	0	2	0
Main Center of Family Medicine - Dragash	10	1	0	0
Municipal Directorate for Health and Social Welfare - Ferizaj	0	0	1	0
Main Center of Family Medicine - Ferizaj	0	0	11	0
Municipal Directorate for Health and Social Welfare - Fushë Kosovë	0	1	0	0
Main Center of Family Medicine - Fushë Kosovë	9	2	0	0
Municipal Directorate for Health and Social Welfare - Glllogoc	0	0	2	0
Main Center of Family Medicine - Glllogoc	0	0	11	0

Municipal Directorate for Health and Social Welfare - Graçanica	0	0	12	0
Municipal Directorate for Health and Social Welfare - Gjakovë	0	1	0	0
Main Center of Family Medicine - Gjakovë	10	1	0	0
Municipal Directorate for Health and Social Welfare - Gjilan	0	0	1	0
Main Center of Family Medicine - Gjilan	0	1	10	0
Municipal Directorate for Health and Social Welfare - Hani i Elezit	0	1	0	0
Main Center of Family Medicine - Hani i Elezit	5	4	0	2
Municipal Directorate for Health and Social Welfare - Istog	0	0	2	0
Main Center of Family Medicine - Istog	7	2	2	0
Municipal Directorate for Health and Social Welfare - Junik	1	0	0	0
Main Center of Family Medicine - Junik	8	0	2	1
Municipal Directorate for Health and Social Welfare - Kaçanik	0	2	0	0
Main Center of Family Medicine - Kaçanik	7	4	0	0
Municipal Directorate for Health and Social Welfare - Kamenica	0	0	1	1
Main Center of Family Medicine - Kamenica	0	0	11	0
Municipal Directorate for Health and Social Welfare - Klinë	0	0	2	0
Main Center of Family Medicine - Klin	0	0	11	0
Municipal Directorate for Health and Social Welfare - Klllokot	0	0	12	0
Municipal Directorate for Health and Social Welfare - Leposaviq	0	0	12	0
Municipal Directorate for Health and Social Welfare - Lipjan	1	1	0	0
Main Center of Family Medicine - Lipjan	7	4	0	0
Municipal Directorate for Health and Social Welfare - Malishevë	1	0	0	1
Main Center of Family Medicine - Malishevë	1	0	0	10
Municipal Directorate for Health and Social Welfare - Mamushë	0	0	0	1
Main Center of Family Medicine - Mamushe	0	1	0	10
Municipal Directorate for Health and Social Welfare - South Mitrovica	0	0	1	0
Main Center of Family Medicine - South Mitrovica	10	1	0	0

Municipal Directorate for Health and Social Welfare - North Mitrovica	1	0	11	0
Municipal Directorate for Health and Social Welfare - Novobërde	0	0	1	0
Main Center of Family Medicine - Novobërdë	0	0	0	11
Municipal Directorate for Health and Social Welfare - Obiliq	0	0	0	1
Main Center of Family Medicine - Obiliq	0	1	0	10
Municipal Directorate for Health and Social Welfare - Partesh	0	0	0	12
Municipal Directorate for Health and Social Welfare - Pejë	0	0	0	1
Main Center of Family Medicine - Peja	10	0	0	1
Municipal Directorate for Health and Social Welfare - Rahovec	1	0	0	1
Main Center of Family Medicine - Rahovec	11	0	0	0
Municipal Directorate for Health and Social Welfare - Ranillug	1	0	0	11
Municipal Directorate for Health and Social Welfare - Podujevë	0	0	0	2
Main Center of Family Medicine - Podujevë	11	0	0	0
Municipal Directorate for Health and Social Welfare - Prishtina	1	0	0	0
Main Center of Family Medicine - Pristina	9	0	0	2
Municipal Directorate for Health and Social Welfare - Prizren	1	0	0	0
Main Center of Family Medicine - Prizren	1	0	0	10
Municipal Directorate for Health and Social Welfare - Skenderaj	0	0	0	2
Main Center of Family Medicine - Skenderaj	8	0	0	3
Municipal Directorate for Health and Social Welfare - Suharekë	1	0	0	1
Main Center of Family Medicine - Suhareka	10	0	0	1
Municipal Directorate for Health and Social Welfare - Shtërpce	1	0	0	11
Municipal Directorate for Health and Social Welfare - Additions	0	0	0	1
Main Center of Family Medicine - Additions	10	0	0	1
Municipal Directorate for Health and Social Welfare - Year	1	0	0	1

Main Center of Family Medicine – Year	10	0	0	1
Municipal Directorate for Health and Social Welfare - Vushtrri	1	0	0	0
Main Center of Family Medicine - Vushtrri	10	0	0	1
Municipal Directorate for Health and Social Welfare - Zubin Potok	1	0	0	11
Municipal Directorate for Health and Social Welfare - Zveçan	0	0	0	12
TOTAL	197	42	135	162

Table 13. The applicability of the recommendations of the Ombudsperson issued from the reports, recommendation letter of 2023 and from the ex officio report no. 577/2021, rights in sexual and reproductive health⁴

The total of recommendations	Implemented recommendations	Partly implemented recommendations	Non-implemented recommendations	Recommendations Awaiting Implementation
836	238	49	135	414

⁴ On December 30, 2022, ex officio Report no. 577/2021, sexual and reproductive health rights in the Republic of Kosovo, through which 536 recommendations were addressed to the authorities. These recommendations were not evaluated for implementation in 2022 because they were addressed on the last day of the year, therefore, they were monitored and evaluated for implementation during 2023.

Graphic presentation of statistics of complaints submitted to the Ombudsperson

January 1, 2023 - December 31, 2023

Figura 1. Percentage of citizen complaints reviewed/decided by Ombudsperson

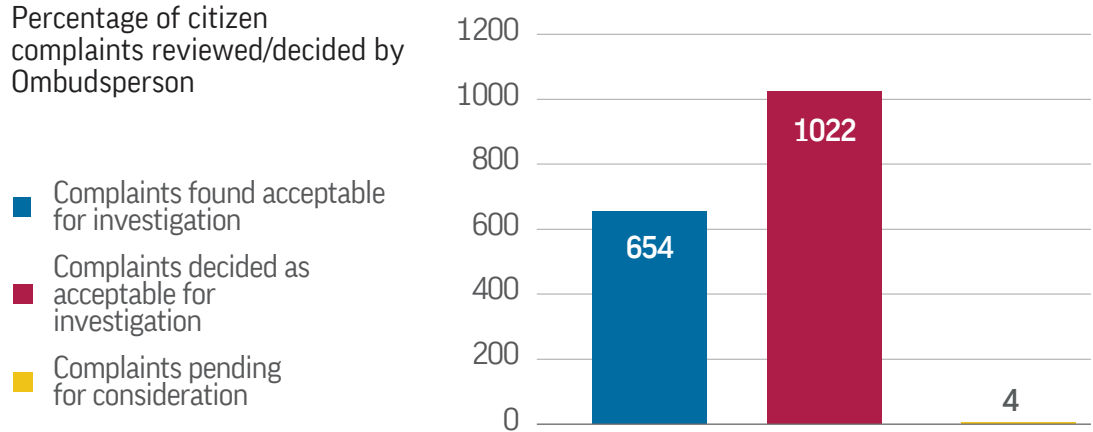


Figura 2. The percentage of complaints according to the ethnic affiliation of citizens

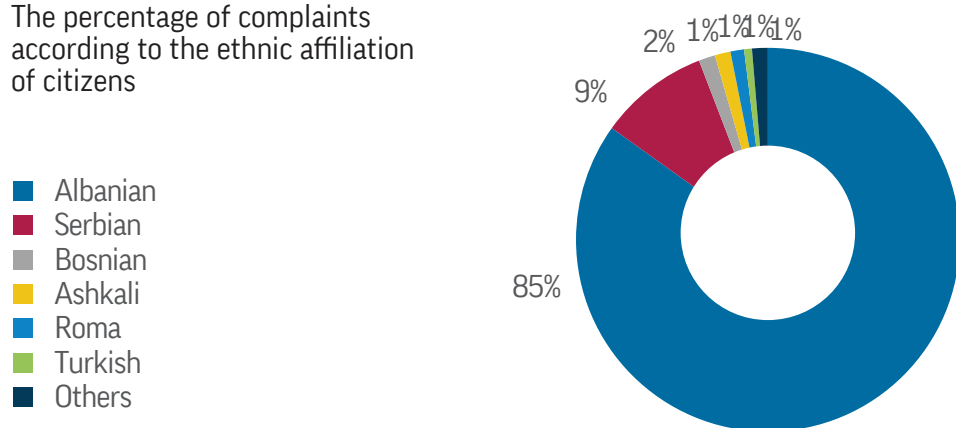


Figura 3. The percentage of complaints according to the gender of citizens

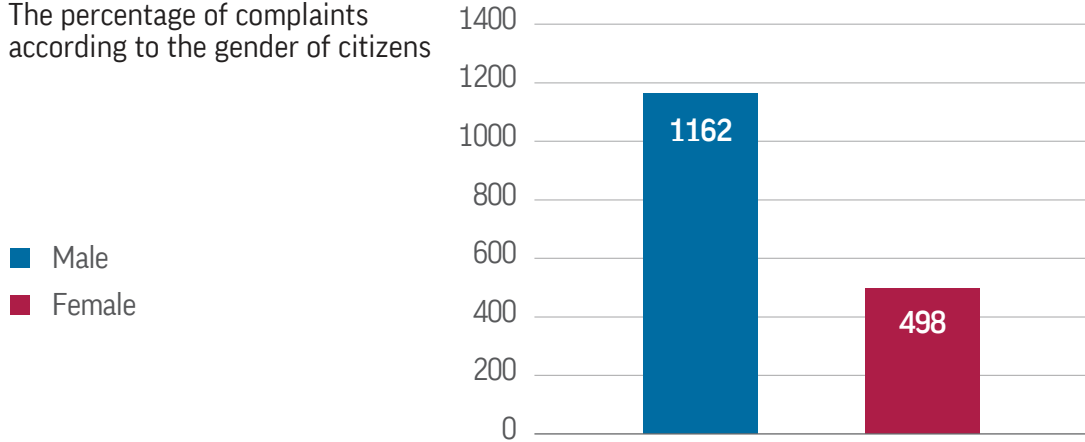


Figura 4. The responsible public authorities, according to the complaints presented to the citizens

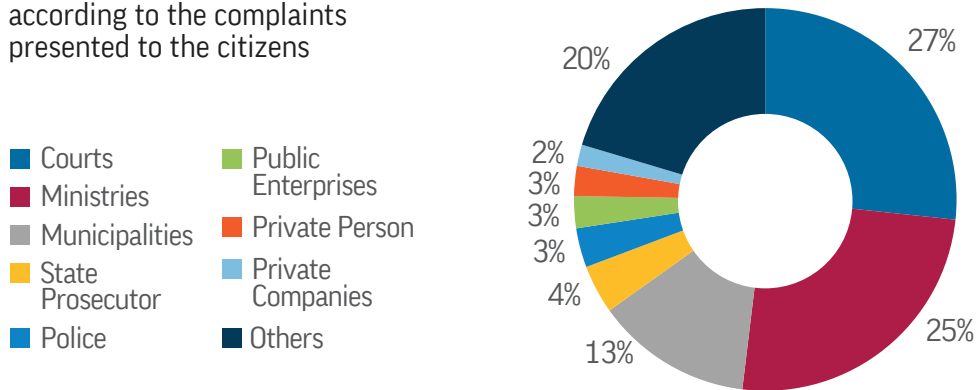


Figura 5. Complaints submitted, according to Chapter II of the Constitution, Fundamental Rights and Freedom

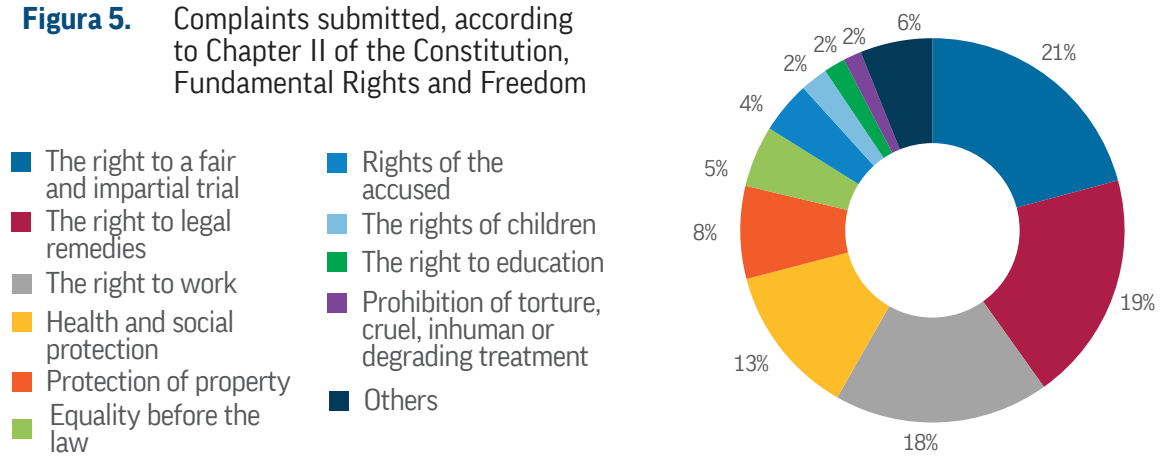


Figura 6. Complaints opened for investigation, according to the ethnic affiliation of the citizens

- Albanian
- Serbian
- Bosnian
- Roma
- Turkish
- Ashkali
- Others

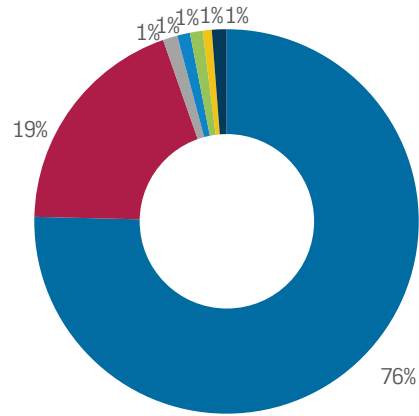


Figura 7. The responsible public authorities, according to the complaints investigated.

- Courts
- Ministries
- Municipalities
- State Prosecutor
- Police
- Public Enterprises
- Private Person
- Others

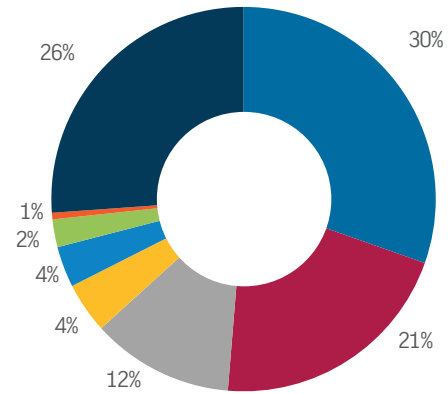


Figura 8. The investigated complaints, according to chapter II of the Constitution

- The right to work and exercise the profession
- The right to a fair and impartial trial
- The right to legal remedies
- Equality before the law
- Health and social protection
- Protection of property
- The rights of children
- The right to education
- Rights of the accused
- Prohibition of torture, cruel, inhuman or degrading treatment
- Human dignity
- Environmental responsibility
- The right to marriage and family
- Others

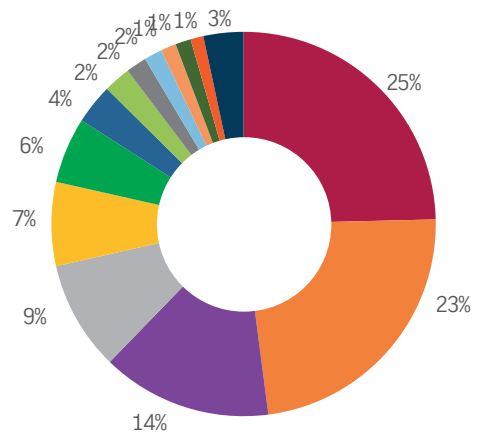


Figura 9. Complaints investigated ex-officio, according to chapter II of the Constitution, Fundamental Rights and Freedoms

- The rights of children
- The right to work and exercise the profession
- Equality before law
- Health and social protection
- Environmental responsibility
- The right to education
- The right to a fair and impartial trial
- Prohibition of torture, cruel, inhuman or degrading treatment
- Protection of property
- The right to legal remedies
- Human dignity
- Freedom of movement

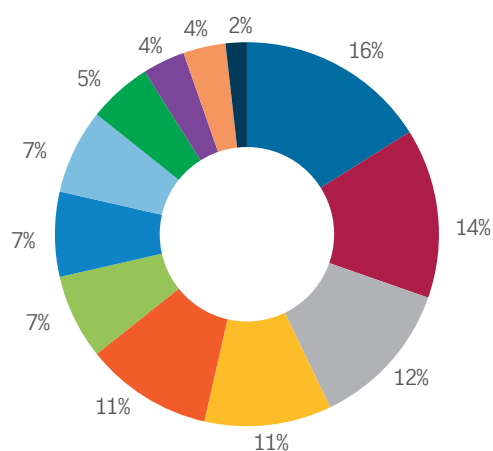


Figura 10. Complaints settled with completion/closure of investigations (includes complaints from 2023 and previous years)

- Unacceptable
- Resolved in accordance with the complainant's request
- Report with recommendations published
- Closed due to lack of interest of the complainant

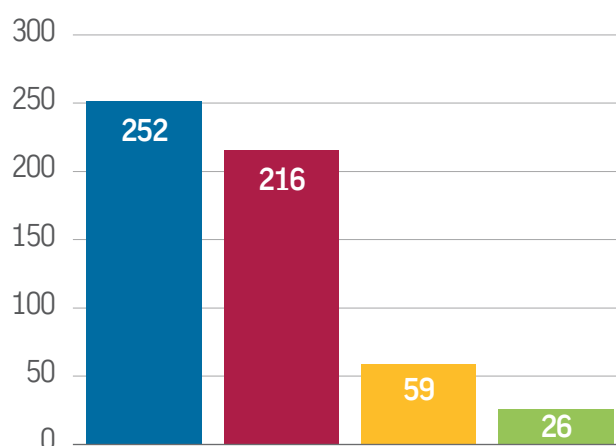


Figura 11. The percentage of applicability of the recommendations of the Ombudsperson...

- Implemented recommendations
- Partly implemented
- Non-implemented recommendations
- Recommendations pending to be implemented

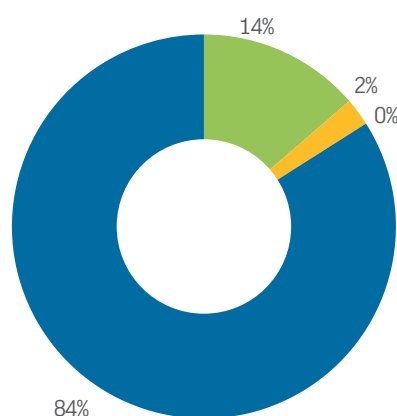


Figura 12. The percentage of applicability of the recommendations of the Ombudsperson published during 2022, dated December 31, 2022 and December 31, 2023

- Implemented recommendations
- Partly implemented recommendations
- Non-implemented recommendations
- Recommendations pending to be implemented

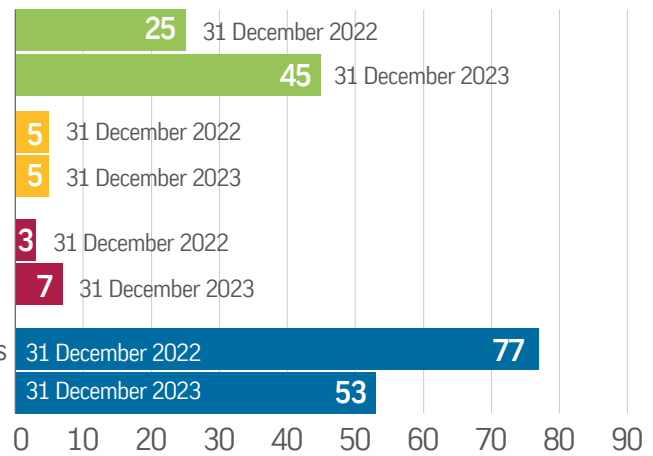


Figura 13. The percentage of applicability of the recommendations from the responsible public authorities related to ex officio Report no. 577/2021, sexual and reproductive health rights in the Republic of Kosovo

- Implemented recommendations
- Partly implemented recommendations
- Non-implemented recommendations
- Recommendations pending to be implemented

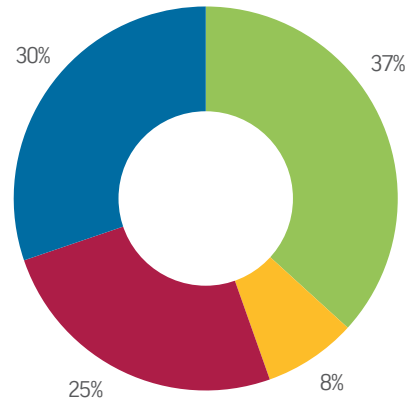
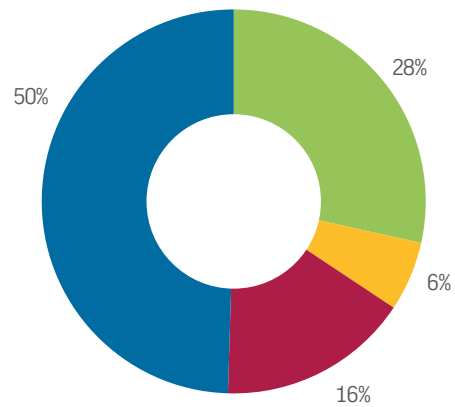


Figura 14. The percentage of applicability of the recommendations by the responsible public authorities

- Implemented recommendations
- Partly implemented recommendations
- Non-implemented recommendations
- Recommendations pending to be implemented



The background is a solid blue color. There are several abstract, light blue shapes that appear to be overlapping or layered, creating a sense of depth and movement. These shapes are primarily located in the upper half of the page, with one large, curved shape extending from the top right towards the center, and another smaller, more angular shape below it. The overall effect is modern and clean.

The protection of human rights by the Ombudsperson

Fundamental rights

Human Dignity

Human dignity is an inseparable part of the human being and his personality. This includes a deep understanding of human values and human rights. As defined by the Constitution, in Article 23 [Human Dignity]: *“Human dignity is inviolable and is the basis of all fundamental human rights and freedoms”*.

Regarding violations of human dignity, the Ombudsperson has received twenty-five (25) complaints, of which eleven (11) have been processed for further investigation.

In the received complaints, it is claimed that other rights protected by the Constitution and international instruments have been violated, such as the right to education, equality before the law, the right to life, the prohibition of torture, the right to privacy, the rights of the accused, the right to work and to practice the profession.

From the complaints received, the Ombudsperson raises his concern regarding the violation of human dignity related to the violation of the right to inclusive education for children with disabilities and discrimination due to disabilities by the competent public authorities.⁵

Also, from the complaints received, the violation of dignity related to the right to work and exercise the profession is worrying.⁶

When the violation of dignity is related to the Right to Privacy, it is the case where the parties have complained that in the Commission

for the Recognition and Verification of the Status of Persons Raped during the war, the parties must wait in the same environment as the other parties, for which they claim that not enough is being done to protect their privacy, but they are also not being treated as provided for by the conditions set by the Commission. During the handling of this complaint, the Ombudsperson found that in this case the violation of the Right to Dignity is also related to the violation of the Right to Privacy (Article 14) and the Right to Equality before the Law (Article 24).⁷

Another situation, which the Ombudsperson has opened investigations, is the case of some citizens of the Municipality of Malisheva who were not allowed to connect to the electricity network despite numerous requests addressed to KEDS. The reason for not connecting to the network, according to KEDS, turns out to be " [...] an electrical energy project for the whole neighborhood [...] and until that time about 20 houses will continue to live in the ground, making it even more difficult especially the serious economic situation and seriously violating human dignity, that in this case, the Ombudsperson found a violation of the Right to Property (Article 46) and the right to Equality before the Law (Article 24).⁸

A special concern for the Ombudsperson is the violation of human dignity, of families living in poverty. Severe economic conditions and poverty undermine the right to a dignified life. In the wake of this concern, the Ombudsperson has visited the village of Janjevë and has recently been informed of the difficult conditions in which the residents of this village live. After the visit, through a press release, the Ombudsperson has called on the competent authorities to take urgent measures to remedy the situation.⁹

5 A. no. 565/2023, H. against DKA; In this case, the complainant, a mother who has a child with disabilities, complained about the lack of an assistant at the school.

6 A. no. 210/2023. F. against CBK, BpB, Pro Credit, Raiffeisen; The complainant was prevented from opening a bank account on the grounds that he had a previous conviction.

7 A. no. 354/2023, H. against commission;

8 A. no. 465/2023, Berisha and others against KEDS, Municipality of Malisheva;

9 On October 10th, 2023, the Ombudsperson with associates visited the village of Janjevë;

The situation with the severe economic and social situation as well as the pollution of the environment in a neighborhood in the municipality of Mitrovica where the majority of members of the Roma, Ashkali and Egyptian communities live has been worrying. This situation will be discussed in more detail in the section of the report on protection from discrimination. For this case, the Ombudsperson has reacted through a communiqué for the public.¹⁰

The Ombudsperson has published the Report with Recommendations,¹¹ regarding the lack of living conditions of the Roma, Ashkali and Egyptian communities returned from North Macedonia to Obiliq. The purpose of the report was to draw the attention of the local and central governments to the need to take action and create dignified conditions for the lives of returnees in the village of Plemetin.

Also, regarding the situation of the lack of drinking water and the lack of regulation of sewage in the village of Marec, the Ombudsperson has evaluated the normal living situation of the inhabitants of this village. The lack of drinking water violates the right to a dignified life.¹² On this occasion, the Ombudsperson issued a public communiqué, calling on the competent authorities to take action within a reasonable time frame to deal with this problem in order to protect the lives of citizens and protect the environment in this locality¹³.

The Ombudsperson, after the visit to the Psychiatric Clinic and Psychiatric Intensive Care Emergency (UKIP),¹⁴ found that the conditions offered do not meet the standards for the treatment of residents there, issued a report with recommendations, recommending to the responsible institutions the improvement of infrastructure, the activation of rooms for treating emergency

cases in other regional hospitals, the issuing of by-laws that would make it possible for the Law on Mental Health to be applicable, as well as to undertake all the necessary measures to ensure the treatment of dignified.

The Ombudsperson, after the publication of the case where violence was used against an elderly woman, by the staff of the home where elderly people were resident, visited this home and opened a case for investigation. Based on this case, a full investigation of the situation was carried out, 3 social care centers where elderly people live were visited to assess the condition of the elderly and respect for their rights. After the investigation, the Ombudsperson published the Report, through which, among other things, he recommended to the Ministry of Justice that with the amendment and completion of the Law on Social and Family Services, all local and international legal guarantees for respecting the rights of persons should be included. elderly, to create a database for the identification of elderly persons under social care. Also, it was recommended to strengthen the Unit for Monitoring and Inspection of Social Services, to organize adequate training for social care workers for the treatment of elderly persons; The General Council of Social and Family Services to be effective and functional in its legal responsibilities; take all measures to ensure that public and private institutions that provide social services meet all standards and criteria for the dignified and non-discriminatory treatment of all elderly persons in social care.

The Ombudsperson with Ex officio report no. 577/2021 related to rights in sexual and reproductive health, among other things, it has concluded that women and girls were not treated with dignity when they sought health services for SSR, due to the lack of adequate

10 <https://oik-rks.org/2023/03/30/>

11 On November 17th, 2023, the Ombudsperson published Ex-Officio Recommendations Report no. 453/2018;

12 On December 4th, 2023, the People's Advocate with associates visited the village of Marec;

13 <https://oik-rks.org/2023/12/04/>

14 On 04.10.2023, the Ombudsperson published a Report with Recommendations for the Psychiatric Clinic and the Psychiatric Intensive Care Emergency (PICE);

spaces and infrastructure in public health institutions and the language inappropriately used by health personnel.

Such a finding came from the findings of the investigation that showed the lack of necessary spaces and infrastructural conditions for providing health services to women and girls with disabilities, those diagnosed with cancer, long waits for treatment, treatment anonymous during abortion as well as post-abortion care. The investigation has also revealed the language used by health personnel during the provision of health services to women with disabilities, which has often been inappropriate, and this has influenced most of them to feel that they are being treated in a dignified manner.

The Ombudsperson has concluded that the undignified treatment of women and girls during the provision of health services for SSR constitutes a violation of human rights and has recommended the responsible institutions to take all necessary measures to ensure treatment with dignity, such as one of the guaranteed rights that must be respected in all health institutions.

The right to life

The Constitution of the Republic of Kosovo guarantees the right to life. The Constitution expressly states that each individual enjoys the right to life, while the death penalty is prohibited.¹⁵ Also, this right is guaranteed by international instruments, such as the Universal Declaration of Human Rights of the United Nations¹⁶, the European Convention on Human Rights¹⁷, the International Covenant on Civil and Political Rights¹⁸, which are part of the legal system

and constitutional in the Republic of Kosovo and have priority, in case of conflict, over the provisions of laws and other acts of public institutions in the Republic of Kosovo.¹⁹ The aforementioned acts establish the obligation of the signatory states to ensure that this right is protected by law and that no one under their jurisdiction is deprived of life arbitrarily.

During the reporting period, the Ombudsperson received ten (10) complaints related to the right to life. After investigating these complaints, the Ombudsperson concluded that there was no violation or failure of competent authorities to protect this constitutional right.

However, taking into account the report of the Kosovo Police on the increase in murder cases this year, the Ombudsperson draws attention and raises his concern for the urgent need to take all necessary measures to prevent this phenomenon.

In practice, this right also includes the protection of prisoners, with the obligation for the state to take necessary measures to protect persons deprived of their liberty, as well as to adequately investigate cases of death in places of deprivation. from freedom.

The freedom of movement

Freedom of movement is a fundamental human right and means free and unimpeded movement within the state and outside its borders, equally for all. The Constitution of the Republic of Kosovo guarantees this right, for all residents of the state, throughout the territory, without restrictions and illegal interference.²⁰

The laws of the Republic of Kosovo²¹, provide for free movement within the state,

15 Constitution of the Republic of Kosovo, Article 25.

16 United Nations, Universal Declaration of Human Rights, Article 3.

17 Council of Europe, European Convention on Human Rights, article 2.

18 United Nations, International Covenant on Civil and Political Rights, Article 6.

19 The Constitution of the Republic of Kosovo, Article 22.

20 Constitution of the Republic of Kosovo, Article 35: "1. Citizens of the Republic of Kosovo and foreigners who are legal residents of Kosovo, enjoy freedom of movement and choice of residence in the Republic of Kosovo.[...]"

21 Law no. 04/L-215 on Citizenship of Kosovo, Law no. 02 /L-121 on Dwelling and Emplacement, Law no. 05/L -015 on Identity Cards, Law no. 06/L -036 on amending and supplementing the Law no.04/l-219 on Foreigners

travel abroad, immigration and repatriation. The state guarantees this right to all persons under its responsibility, in the entire territory of the state without restrictions and illegal interference. The responsible institutions have an obligation, without any discrimination and illegal restrictions, to undertake all necessary measures to ensure free movement in general for all citizens of Kosovo.

During the reporting period, the Ombudsperson received 14 complaints regarding the right to freedom of movement. Of these complaints, 11 were declared inadmissible, while three of them are under investigation.

During 2023, the Ombudsperson addressed to the responsible authorities the Report with recommendations for the ex officio case no. 453/2018²², regarding the creation of suitable conditions for housing in the case of the return of the Roma, Ashkali and Egyptian communities from North Macedonia to Obiliq . Although the case was initially opened for investigation in relation to equality before the law, during the investigation it was found that the freedom of movement was also violated in the sense of denying the right to choose the place of residence, defined by Article 35 of the Constitution, the relevant local legislation, as well as the UN Guiding Principles on Internally Displaced Persons. Among other things, the Ombudsperson in this report with recommendations has assessed that the right to housing is one of the important issues for social stability, health and the qualitative development of human well-being.

The Ombudsperson has recommended to the responsible authorities to create conditions for sustainable return, protection, integration and development of communities,

and has also recommended taking actions to create suitable living conditions for the families of the Roma, Ashkali and Egyptian communities, returned to Plemetin village.

Property protection

According to the Constitution, the right to property is guaranteed²³, this right is also guaranteed by the CPFHR²⁴ and other international instruments.

During the reporting year, the Ombudsperson received 169 complaints related to the right to property protection. Of these complaints, 51 of them have been opened as cases for investigation. The largest number of investigated cases has to do with procrastination of judicial procedures, property disputes. The Ombudsperson, after carrying out the investigations, in the cases where he found violations of this nature, recommended the courts to undertake concrete actions in the direction of resolving these issues in order not to violate the right to a fair and impartial trial, within a reasonable time.

The former workers of the NSH "Liria" Bardhosh had submitted a complaint to the Ombudsperson regarding the non-realization of the compensation of funds (20% of the expropriated funds) from the expropriation of the property of NSH "Liria" Bardhosh. In relation to this issue, the Ombudsperson on September 21, 2023, published a report²⁵ and recommended the Government of the Republic of Kosovo, without further delay, to transfer the funds for the compensation of the expropriated property of NSH "Liria" Bardhosh, to the Kosovar Privatization Agency, so that the company's qualified workers are distributed the value of 20% of the expropriated properties.

22 See in: <https://oik-rks.org/en/2023/11/16/report-of-the-ombudsperson-ex-officio-no-4532018-lack-of-suitable-living-conditions-for-roma-ashkali-and-egyptian-communities-returned-to-obiliq-from-republic-of-north-macedonia/>

23 Constitution of the Republic of Kosovo, Article 46.

24 ECHR, Additional Protocol, Article 1

25 Report of the Ombudsperson A. No. 835/2016.

During the reporting year, the Ombudsperson received two complaints from the citizens of the Republic of Kosovo, who live in the municipalities of Leposaviq and Zubin Potok, and also opened a case ex officio, related to the expropriation of immovable property from The Government of the Republic of Kosovo in these municipalities. Regarding this issue, the Ombudsperson has analyzed the legal basis and the circumstances of the case, and has noticed that in this particular case, the procedures are being developed in the judicial instances, namely the Preliminary Decision regarding the expropriation is under consideration in the Supreme Court of Kosovo. In this regard, the Ombudsperson estimates that it is important that the expropriation process be carried out according to the provisions of the Law on Expropriation of Immovable Property, in order to respect the property rights of the citizens of the municipalities highlighted above.

On the basis of the complaints submitted by the citizens as well as on the basis of the information received in other forms regarding the challenges in the process of legalization of objects without permission, during 2023 the Ombudsperson initiated the investigative procedure and is dealing with the influence according to official duty in human rights and the unhindered enjoyment of property, as a result of the procrastination of the procedures for the legalization of properties as well as the lack of a certificate of use of buildings whose construction has been completed.

On the basis of the complaints submitted by the citizens as well as on the basis of the information received in other forms regarding the challenges in the process of legalization of objects without permission, during 2023 the Ombudsperson initiated the investigative procedure and is dealing with the influence according to official duty in human rights and the unhindered enjoyment of property, as a

result of the procrastination of the procedures for the legalization of properties as well as the lack of a certificate of use of buildings whose construction has been completed.

The Right to Freedom and Security

The right to freedom and security is guaranteed by the Constitution of the Republic of Kosovo²⁶ as well as by the International Convention on Civil and Political Rights²⁷ and the European Convention on Human Rights²⁸.

In the reporting year, no case of violation or denial of the rights guaranteed by Article 29 of the Constitution was found.

The Ombudsperson, through the National Mechanism for the Prevention of Torture (NMPT), has regularly and without warning visited the places where persons deprived of their liberty are kept, such as police detention centers, detention centers and correctional ones, has opened complaint boxes as well as conducted interviews with detained persons. In some cases, it has accepted assertions of violation of the right to freedom and security, referring to the decisions on the imposition of detention²⁹ and the delay of judicial procedures. Also, a complaint received by the NMPT has to do with security during the serving of the sentence³⁰.

In this regard, the Ombudsperson has continuously emphasized the role and responsibility of the authorities for the effective administration of justice, which would ensure that the detention does not exceed the legal terms, and is in harmony with the local and international acts for the protection of the rights of human.

26 Constitution of the Republic of Kosovo, Article 29;

27 International Convention on Civil and Political Rights, Article 9;

28 European Convention on Human Rights, Article 5;

29 A. no. 568/2023, Plesovic against PSRKP;

30 A. no. 172/2023, Morina against Q.P. Prizren;

The right to a fair and impartial trial

The right to a fair and impartial trial is guaranteed by the Constitution, Article 31 [Right to a Fair and Impartial Trial]. This right is also guaranteed by Article 6 of ECHR [Right to a due process].

In relation to the protection of human rights and freedoms in relation to the judiciary, the Ombudsperson does not interfere in judicial investigations carried out by the courts, but has the competence to handle complaints related to the rights guaranteed by Article 31 of the Constitution and with article 6 of ECHR.

The Ombudsperson has received 451 complaints with allegations of violation of the right to a fair and impartial trial, which are mainly related to procedural delays in the courts. Of the complaints received, 215 of them have been opened as cases for further investigation. During the reporting year, 14 reports were published with recommendations for delaying court procedures.

Despite the fact that the delays in court proceedings represent one of the concerns that the Ombudsperson has repeatedly raised and has recommended to the Government and the Assembly of the Republic of Kosovo the creation of a legal mechanism for compensating violations of this nature, this mechanism has not yet been finalized. The citizens of the country, despite the fact that this right is violated, still remain without legal protection in terms of compensation for the violation of the right to a fair and impartial trial.

However, this year there has been a movement towards the implementation of the recommendation, where the Government of Kosovo has approved the Concept document

for the realization of civil rights, including the right of the parties to a trial within a reasonable time³¹. One of the possible options of this concept document regarding the guarantee of the right to trial within a reasonable time, consists in the adoption of a special law for this purpose. This would also mean the determination of special (effective) legal remedies for the protection of this right.

The Ombudsperson emphasizes that a transparent, efficient and independent judiciary is the main mechanism to ensure the rule of law, as one of the highest constitutional values in the Republic of Kosovo, which is embodied through fair, well-reasoned judicial decisions, create a framework for democratic societies and the protection of fundamental rights.

All courts in the country, based on the law on courts³², are obliged to publish the final court decisions on their official websites, and their publication has continued throughout the reporting period³³.

The Ombudsperson estimates that the publication of court judgments, apart from being a legal requirement, increases the transparency of the judicial system, accountability and at the same time contributes to the increase of citizens' trust in the justice system.

Disciplinary responsibility of judges and prosecutors

According to the Law on Disciplinary Responsibility of Judges and Prosecutors (LDRJP), the Ombudsperson has been assigned additional powers, for accepting complaints from citizens, presented to a judge or prosecutor. According to Article 9.3 of the law: "Physical and legal persons may file a complaint against a judge or prosecutor with the Ombudsperson."

31 <https://kryeministri.rks-gov.net/wp-content/uploads/2023/07/KONCEPT-DOKUMENTI-PER-REALIZIMIN-E-TE-DREJTAVE-CIVILE-PERFSHIRE-TE-DREJTEN-E-PALEVE-PER-GJYKIM-BRENDA-KOHES-SE-ARSYESHME.pdf>

32 See Law no.06/L-054 on Courts, Article 6.

33 <https://www.gjyqesori-rks.org/aktgjykimet/>

Based on the powers of this law, this year the Ombudsperson has received 11 complaints from citizens against judges and prosecutors, of which 10 complaints have been investigated, while 1 complaint has been rejected as inadmissible, since have not met the eligibility criteria in accordance with the Ombudsperson Law and LDRJP. This year, compared to the previous year, there is a slight increase in the number of complaints submitted to the Ombudsperson Institution, against judges and prosecutors.

It is worth noting that the Ombudsperson in all these cases has accepted the decisions from the responsible authorities within the deadline provided by law and has notified the complainants with the decisions in question.

The right to legal remedies

The right to legal remedies is guaranteed by Article 32 of the Constitution, which provides that *"Each person has the right to use legal remedies against judicial and administrative decisions that violate his/her rights and interests in a manner determined by law"*³⁴.

ECHR in Article 13 expands the scope of protection also in terms of effective choice by emphasizing that "Everyone, whose rights and freedoms are violated in this Convention, has the right to an effective remedy before a national body, regardless of whether the violation was carried out by persons acting in fulfillment of their official functions".

Every citizen can use the legal remedies against any decision issued by public state authorities when he considers that a right has been violated. Through the use of legal remedies, it is possible to restore the right.

During the reporting year, the Ombudsperson received 419 complaints alleging violation of the right to legal remedies due to non-response within the deadline to the submitted complaints. Of the complaints received,

132 complaints³⁵ have been opened for investigation, while the others have not met the eligibility criteria in accordance with the Law on the Ombudsperson.

115 complaints were filed against the responsible institutions of the central level and courts of all levels, of which 63 were opened for investigation, while 297 complaints were received against local level institutions and 64 complaints were opened for investigation.

From the analysis of the examined cases, it appears that in relation to judicial procedures, this right is violated due to the duration (dragging) of the examination procedure, which affects the violation of the right to an effective solution. While in relation to administrative procedures, it is found that the most frequent violation of this right comes as a result of the administration's silence (non-response).

The Right of Privacy

The Constitution of the Republic of Kosovo guarantees the enjoyment of the right to respect for private and family life, the inviolability of the home, the secrecy of correspondence, telephone and other communications^[1].

In addition to the Constitution, the right to privacy, which includes the right to private life, family life, the integrity of the home, the secrecy of correspondence, telephone and other communications, is also guaranteed by the European Convention on Human Rights^[2], The International Covenant on Civil and Political Rights^[3] as well as the Universal Declaration of Human Rights^[4].

Law no. 06/L-082 for the Protection of Personal Data (LMDhP) defines the rights, responsibilities, principles and punitive measures related to the protection of personal data and individual privacy.

34 Constitution of the Republic of Kosovo, Article 32

35 OI in cases; A. no. 7/2023, A. no. 607/2023, A. no. 550/2023, A. no. 549/2023, A. no. 528/2023, A. no. 370/2023, A. no. 330/2023, A. no. 147/2023, A. no. 39/2023, A. no. 462/2023 [...]

Regarding the right to privacy and allegations of violation of this right, the Ombudsman, during 2023, received 7 complaints, 4 of them were declared inadmissible, while 3 of them were opened for investigation. The investigations for two of the three complaints opened for investigation have been completed and it has been established that there are no violations or maladministration, while for one of them the investigations are ongoing.

The Law of Marriage and Family

The Constitution protects and guarantees the right to marriage and family and that on the basis of free consent, everyone enjoys the right to marry and the right to found a family in accordance with the law.³⁶ Further, the Constitution determines that marriage and its solution are regulated by law and are based on the equality of spouses³⁷, the family enjoys special protection of the state, in the manner regulated by law³⁸.

During this year, the Ombudsperson received 21 complaints related to the right to marriage and family, 10 of them were processed for further investigations, while 11 were declared inadmissible because the issues they dealt with were outside the jurisdiction of the Ombudsperson, there were no violations of human rights, or the complainants had the opportunity to use or were in use of legal remedies.

Based on the analysis of the cases investigated at the Ombudsperson Institution, the complaints were related to: finding data on the identity of the biological mother³⁹, not having contact with the children⁴⁰, the dissolution of the marriage, child custody

and alimony⁴¹, illegal taking of children from the ex-spouse⁴², the issue of divorce⁴³ and so on. Of these investigated cases, 6 cases were resolved according to the request of the complainants, 2 cases did not result in human rights violations, while one case is still in the process of investigation. Of the cases investigated during the reporting year for the right to marriage and family, most of them have to do with the issue of not having contact with children, so it can be said that having contact with children when parents live apart continues to be a problem Continued. In most cases, due to the breakdown and irritation of interpersonal relations between ex-spouses, one parent is denied contact with the children of the other parent. In these cases, children are denied the full realization of maintaining regular personal relationships with their parents⁴⁴.

In order to prevent early marriages, during 2020 the Ombudsperson published the Report with ex officio recommendations in order to amend and supplement Article 16, paragraphs 2 and 3, of the Family Law. Article 16 of the Family Law stipulates that the marriage of a minor over 16 years of age can be allowed by the competent court if it is established that the minor has reached the necessary physical and mental maturity to realize the marital rights and obligations. In the report, the OIK noted that numerous studies prove that early marriages have a negative impact on the development and well-being of children. Early marriage affects girls' decision-making power within the family and makes them more vulnerable to violence and sexual abuse. In Kosovo, this phenomenon disproportionately affects girls and the Roma, Egyptian and Ashkali

36 Constitution, Article 37, paragraph 1.

37 Constitution, Article 37, paragraph 2.

38 Constitution, Article 37, paragraph 3.

39 Complaint no. 26/2023.

40 Complaint no.71/2023, Complaint no.104/2023, Complaint no.123/2023, Complaint no.242/2023, Complaint no.257/2023, Complaint no.597/2023.

41 Complaint no.129/2023.

42 Complaint no.136/2023.

43 Complaint no r.196/2023.

44 Constitution, Article 50; Convention on the Rights of Children, Article 9.

communities, as more children from these communities marry earlier and more girls marry before adulthood.

The draft Civil Code approved at the Government meeting on December 30, 2021, included the recommendation of the Ministry of Internal Affairs that the age for marriage be 18 years, but this draft code in 2022 did not receive the necessary votes for approval in the Assembly of the Republic of Kosovo. The Government of the Republic of Kosovo, in the Legislative Program for the year 2023, has provided for the Assembly of Kosovo to send the Draft Civil Code, but such a thing did not happen during the reporting year. The Ombudsperson considers it important to speed up the drafting process by the Government of the Draft Civil Code and send it for approval to the Assembly of the Republic of Kosovo.

Also, the lack of will of the Assembly for the approval of the Civil Code, among other things, has left the issue of same-sex marriages pending and unresolved. Regarding this issue, the Ombudsperson has given his position with ex officio Opinion no. 307/2022⁴⁵ regarding the recognition of family relationships of persons of the same sex with the Draft Civil Code. According to this Opinion, the legal regulation of the right to marriage must be in accordance with the Constitution.

Freedom of Belief, of Conscience and of Religion

Freedom of Belief, of Conscience and of Religion in Kosovo is guaranteed by Article 38 of the Constitution of the Republic of Kosovo, Article 9 of the European Convention on Human Rights and Law no. 02/L-31 for religious freedom in Kosovo.

Law no. 02/L-31 on religious freedom in Kosovo does not regulate many issues regarding the legal position of religious communities. Even though there have been

efforts for legal changes and the issuance of a new law that would regulate the legal position of religious communities, this has not happened this year either.

The work on the changes in the law no. 02/L-31 lasted more than ten years. Specifically, draft law no. 07/L-037 for changes in Law no. 02/L-31 on religious freedom in Kosovo, was approved by the Government of Kosovo on January 25, 2023, but has not yet been approved because it has not passed all legislative procedures. The adoption of this law that would completely regulate the legal position of religious communities, financial and property issues, etc.

The issues that attracted the attention of religious communities during 2023 are similar to previous years. The issue of wearing religious headscarves in schools, the maintenance of cemeteries and facilities of religious communities are still issues in which there is no great progress compared to previous years.

During 2023, the Ombudsperson Institution received 4 complaints regarding the violation of the right to freedom of religion, belief and conscience. Of these complaints, 3 have been opened for further investigation.

In relation to the complaints with the claim that the complainant was denied access to an educational institution because of the headscarf, the Ombudsperson found that this issue was expressed in the 2022 Annual Report, in which the position of the Ombudsman was highlighted that Administrative Instruction of MESTI, no. 06/2014, Rules of etiquette and disciplinary measures for high school students, does not represent a sufficient legal basis for banning the wearing of headscarves in educational institutions. In expressing this opinion, the Ombudsperson started from the principle that the limitation of rights and freedoms can only be done by a law approved by the Assembly, when there is a legitimate purpose

45 <https://oik-rks.org/en/2022/05/27/opinion-of-the-ombudsperson-regarding-the-recognition-of-the-family-relationships-of-people-of-the-same-sex-in-the-draft-civil-code-ex-officio-no-3072022/>

and when the criteria defined in Article 55 of the Constitution are met.

Freedom of expression

The Constitution in Article 40 guarantees the right to freedom of expression, which includes the right to express, distribute and receive information, opinions and other messages, without being hindered by anyone. Freedom of expression is also guaranteed by international instruments, such as: Universal Declaration of Human Rights, ECHR, International Covenant on Civil and Political Rights.

According to the Constitution⁴⁶, freedom of expression can be limited by law in cases where such a thing is necessary, in order to establish the limits of freedom of expression in relation to other rights. The restrictions on freedom of expression according to the legislation of Kosovo consist of the purpose of avoiding hate speech, incitement to violence, discriminatory, insulting and slanderous language.

The Ombudsperson accepts few complaints about the violation of this right. This year it received 2 complaints. One complaint was filed against the Tax Administration of Kosovo, after examining which it was found that there were no violations. While the other complaint filed against an information portal, claims for the publication of insulting, derogatory, racist, humiliating comments about the complainant and his family. After submitting the complaint, the complainant announced that he initiated the case in the judicial bodies.

During the reporting year, the Ombudsperson has conducted ex-officio investigations regarding communication in public discourse, respectively in cases of violation of freedom of expression, the use of hate speech on a discriminatory basis against women, LGBTIQ+ persons and other vulnerable groups. Findings of human rights violations from this area will be addressed

to the authorities through a report with recommendations.

On April 3, 2023, the Ombudsman hosted the UN Special Rapporteur on Freedom of Thought and Expression, Mrs. Irene Khan who visited the state of Kosovo on a fact-gathering mission with her team. The Ombudsperson informed the reporter about the work and activities of the OIK, about the mandate and powers, the way of handling the complaints of citizens and journalists in particular, which are related to the freedom of expression and the media. The Ombudsperson also informed Ms. Khan, that he has drawn the attention of public institutions to increase efficiency in dealing with cases that are against free speech.

On September 20, 2023, the Ombudsperson participated in the conference "Hate speech in public discourse", which was organized by the Office of the Council of Europe in Pristina and the Office of the European Union in Kosovo. In this conference, the Ombudsperson emphasized that freedom of expression is important in a democratic society and that this right must be exercised in accordance with other rights. He recalled the state's obligation to take measures against language that incites hatred, against individuals or certain groups based on race and racial discrimination, gender-based discrimination, homophobia, transphobia, xenophobia, as well as all forms that essentially they have discrimination and not tolerance. The Ombudsperson called on the authorities to take measures in terms of law enforcement, education and awareness of the harm and dangers that hate speech carries, strengthening self-control mechanisms in the field of media and public communication. Likewise, the Ombudsperson reminded the authorities to monitor and record cases containing hate speech and recalled that the competent authorities should react promptly and efficiently to avoid hate speech, as an opportunity to build a society where human rights and tolerance are respected.

⁴⁶ Constitution, Article 40, paragraph 2

The Right of Access to Public Documents

Constitution⁴⁷ guarantees the right of each person to access public documents. This right is not an absolute right, but it is a right that must be balanced with other rights, without harming other interests.

The right of access to public documents, in addition to the Constitution, is also guaranteed by the Universal Declaration of Human Rights⁴⁸, the European Convention on Human Rights⁴⁹, the International Covenant on Civil and Political Rights⁵⁰.

Law no. 06/L-081 on Access to Public Documents (LAPD), guarantees the right of each person, without discrimination on any basis, to have access to public documents, produced, accepted, kept or controlled by public institutions, as well as the right to reuse public sector documents⁵¹.

The institution of the Ombudsperson, as an independent constitutional institution, assists citizens in realizing the right to access public documents based on Law no. 05/L-019 for the Ombudsperson Law no. 06/L-081 for Access to Public Documents.

During 2023, the Ombudsman received 11 complaints related to access to public documents, 8 of which were declared inadmissible, while the other 3 were opened for investigation. The investigations for the 3

complaints have been completed and it has been established that they did not use the available legal means and did not respect the legal deadlines set according to Law no. 06/L-081 for Access to Public Documents.

After the election of the Commissioner for Information and Privacy and after the operationalization of the Agency for Information and Privacy, the number of complaints submitted to the OIK has significantly decreased. The Agency for Information and Privacy (AIP) was established on the basis of the special law for the protection of personal data⁵², which determines that this agency is represented by the Commissioner, who is appointed by the Assembly of Kosovo and is responsible for ensuring the implementation of the Law for the protection of personal data and the Law on access to public documents. Among other things, this law also regulates the administrative appeal procedures, where the Agency serves as the second level and is competent for the pronouncement of the measures foreseen by the LAPD. Whereas, the competence of the Ombudsperson, according to Article 21 of the LAPD, is to help citizens in realizing the right to access public documents according to the Constitution, Law no. 05/L-019 on the Ombudsperson and the relevant laws that regulate the scope and responsibilities of the Ombudsperson. Every person has the right to address the Institution of the Ombudsperson with a

47 Constitution of the Republic of Kosovo, Article 41 Right of Access to Public Documents: "1. Every person enjoys the right of access to public documents. 2. Documents of public institutions and organs of state authorities are public, except for information that is limited by law due to privacy, business trade secrets or security classification."

48 UDHR, Article 19: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

49 ECHR, Article 10 paragraph 1, guarantees the right of access to public documents through the freedom to receive and provide information and provides: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of ...".

50 ICCPR, Article 19: "1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. [...]."

51 Law no. 06/L-081 on Access to Public Documents, Article 1.

52 Law no. 06/L-082 on Personal Data Protection, Article 57 and 58

request or complaint if he considers that any right recognized by this Law or other acts for access to public documents has been violated.

Freedom of Media

The Constitution with Article 42 [Freedom of the Media] guarantees the freedom and pluralism of the media, in addition the Constitution prohibits censorship and defines that *"no one can prevent the dissemination of information or ideas through the media, except in cases where such a thing is necessary for the prevention of incitement and provocation of violence and hostilities based on racial, national, ethnic or religious hatred"*.

Journalists' resources are protected by Law no. 04/L-147 for the Protection of Journalism Resources. There are other laws that contain detailed provisions for the implementation of constitutional guarantees, such as the Civil Law against Defamation and Insult, the Law on Protection of Personal Data, the Law on Access to Public Documents, the Law on Copyright, and there is self-regulation of the media through the code of ethics that teaches the greatest responsibility in journalism.

The Ombudsperson has followed with concern the verbal threats and physical attacks against journalists and other media workers during this year. The situation created in the 4 northern municipalities after the extraordinary elections has been particularly disturbing. On this occasion, the Ombudsperson drew the attention of public institutions that they should be able to provide security and protection for journalists so that they are free to exercise their profession.

This situation has also been ascertained by the Association of Journalists of Kosovo (AJK), which has reported 74 cases of threats and attacks against journalists⁵³ which marks one of the years with the most

cases since its establishment in 2002. Of this number, 30 cases were recorded during the reporting of journalists from the north of the country during the months of May and June 2023, where a number of journalists and cameramen were physically attacked by the protesters there and some media properties were damaged, such as cameras and cars. Threats and other physical attacks have occurred in other areas, carried out by citizens, officials, members of the security and public figures against journalists. AJK has about 900 members consisting of journalists, photojournalists and other media workers. The program of this association – "Journalists in Residence – Kosovo" continues to be implemented (since April 2022), where AGK, together with the European Center for Freedom of the Press and Media (ECFPM), have welcomed 13 journalists from Ukraine and four journalists from Afghanistan. The program is financed by the Government of the Republic of Kosovo and aims to provide shelter to threatened journalists.

The Ombudsperson has reacted in two cases that had to do with the freedom of the media and the safety of journalists. The first reaction was against the physical attack on journalist Valon Sylja in April 2023.

The Ombudsperson has also reacted regarding the decision of the Agency for Registration of Businesses in Kosovo (ARBK) for the suspension of the business certificate of the company "Klan Kosova Sh.P.K", emphasizing the constitutional and legal guarantees that guarantee the inviolability of the freedom of expression and freedom of the media as democratic values in the Republic of Kosovo⁵⁴.

According to the Independent Media Commission, a body competent for the regulation, management and supervision of the broadcasting frequency spectrum, there are 19 television stations in Kosovo: one public television station (which broadcasts

53 Association of Journalists of Kosovo, Facebook post on December 31st, 2023, link: <https://bit.ly/47mXOlr>

54 <https://oik-rks.org/en/2023/06/20/the-ombudsperson-emphasizes-that-judicial-control-is-needed-for-the-suspension-of-the-business-certificate-of-klan-kosova-television/>

in all the languages of the communities), 13 TV stations in the Albanian language, and 4 TV stations in the Serbian language), and 83 radio stations are licensed⁵⁵. This body handles third-party complaints against television and radio stations in case of violation of the code of ethics.

The Kosovo Print Media Council (KMSHK) is another self-regulatory body formed for and by the print media sector. Although there are no daily newspapers published in Kosovo since the closure of some of them during the COVID-19 pandemic, this council nevertheless accepts complaints from third parties regarding the portals. There is no exact number of online newspapers and portals, but KMSHK has 47 members registered in this council, whose editors meet once a month to handle complaints about alleged violations of the code of ethics by portals. Portals whose owners are unknown and lack basic information such as addresses and general contacts remain worrying, and through which space is created for the distribution of fake news and misinformation. Also, such portals do not publish the names of journalists, which presents a disadvantage for parties who wish to complain about articles with alleged violations of the Code of Ethics.

Freedom of Association

The Constitution guarantees the Freedom of Association⁵⁶, giving everyone the right to establish an organization without the need to obtain permission, to be or not to be a member of an organization, as well as to participate in the activities of an organization. It also guarantees the freedom to establish trade unions and to organize in order to protect interests.

In general, it can be estimated that this constitutionally protected freedom is generally respected in our country. Such an assessment was also given in the Progress Report for Kosovo for the year 2023.⁵⁷

In the reporting period, as far as the freedom of membership in organizations is concerned, the Ombudsperson has not noticed any interference by the state authorities in the establishment or limitation in the functioning of Civil Society Organizations (CSOs), in terms of setting obstacles or different criteria for registration or licensing. Also, the organization of various CSO activities have passed without incident, thanks to the preventive and security measures undertaken by the law and order bodies in the country. Even the Pride Parade organized as part of Pride Week, where the president and prime minister of the country, deputies, ministers, mayors, representatives of the Ombudsperson, and so on, were present, passed without any incident. On this occasion, the additional preventive measures undertaken by the law enforcement bodies should be mentioned, on the occasion of lighting the building of the Ombudsperson, in honor of marking the International Day against Homophobia, Biphobia and Transphobia.

During the year 2023, the Ombudsperson received 5 complaints⁵⁸ with claims or assertions of violation of rights related to Freedom of Association, of which 2 were declared inadmissible and for 3 cases investigations are underway. One of the complaints was presented by the non-majority Turkish community to the Municipality of Prizren, regarding the claim of obstruction of the development of cultural and artistic activities by the community, in the absence of permission to use municipal spaces for

55 Independent Media Commission website, accessed 5 January 2023, <https://www.kpm-ks.org/telicencuarit/306/llojet-e-licencave/306>

56 Constitution, Article 44

57 For more see: EC Report on Kosovo 2023: https://integrimievropian.rks-gov.net/wp-content/uploads/2023/12/Kosovo-2023-Report_SQ.pdf, page 36

58 A. no. 499/2023 against OPM; A. no. 407/2023 against the Municipality of Prizren; A. no. 231/2023 against the Ministry of Health; A. no. 107/2023 against the Ministry of Foreign Affairs;

cultural and artistic purposes. The other case under treatment is filed against the Ministry of Health, with a claim for violation of the right of association and the right to practice work and profession due to legal obstacles encountered in the process of applying for licensing and relicensing of specialists. of clinical biochemistry, related to the criteria for their membership in health professional associations.

The Ombudsperson, through the mediation procedure, has managed to resolve the complaint submitted by the chairman of the Independent Union of Radio Television of Kosovo (IURTK), against Radio Television of Kosovo (RTK), with the claim that he was demoted in position due to his activity union. In this regard, the Ombudsperson in accordance with the legal mandate provided for in Law no. 05/L-019 for the Ombudsperson, in the meeting held between the parties, on May 17, 2023, through mediation, an agreement was reached between the Management of RTK and SPRTK, in this case. The parties, among other things, have pledged to continue their commitment in respecting the legal conditions for trade union action and dialogue; will respect the legal principles of trade union commitment, in compliance with the rights and obligations arising from the laws in force, by-laws and internal rules of RTK; re-examining the position of the head of the union in the same or similar position while maintaining the salary coefficient before the imposition of the disciplinary measure; withdrawing from the court proceedings initiated in this matter and cooperation in the further functioning of RTK and the peaceful addressing of the issues⁵⁹.

On October 24, 2023, the miners of the Flotation Mine have announced that they have gone on strike inside the mine, presenting three basic demands for treatment: the realization of the monthly salary on time from the 6th to the 10th of the month; dismissal

of management; health insurance and working conditions. The Ombudsperson, in order to fulfill the constitutional and legal mandate for the protection of human rights and fundamental freedoms, as well as to become more familiar with the demands, the possibilities of addressing them and the health condition of the miners on the third day of the strike, namely on October 26, 2023, visited the striking miners of Trepça⁶⁰. On this occasion, the Ombudsperson met the chairman of the Independent Union of Trepça Miners and other representatives of the union, who provided information on the progress of the strike of about 700 miners, as well as on their demands. The complaints referred to working conditions, discriminatory treatment and non-fulfillment of obligations by the management regarding the payment of the trust and many other issues related to the rights of miners and other employees. The Ombudsperson has visited the strikers inside the mine and has closely seen their condition, raising concern over the lack of social dialogue and the need for discussion on addressing demands and reaching an agreement. On November 3, 2023, the Independent Union of Trepça Miners through a communique announced to the public that an agreement has been reached to stop the 10-day strike, organized by the miners of Trepça Sh.A., after reaching an agreement to address their demands. according to the agreement mediated by some deputies and the Temporary Supervisory Board. However, even after the agreement was reached, the miners have stated that the demands agreed with the agreement are not being implemented.

59 A.no. 693/2022 – Imam against RTK

60 For more see the OI website: <https://oik-rks.org/en/2023/10/26/the-ombudsperson-visited-the-striking-miners-of-trepca/>

Electoral and Participation Rights

The Constitution guarantees the right to choose and to be chosen⁶¹. This right is one of the basic human rights, guaranteed by the Constitution and international legal acts.

The Ombudsperson has accepted only one complaint against the Central Electoral Commission, which was declared inadmissible.

On April 23, 2023, in the four municipalities in the north of the Republic of Kosovo, North Mitrovica, Leposaviq, Zveçan and Zubin Potok, extraordinary elections for the mayor of the municipality were held. Citizens with the right to vote have also voted for two new municipal assemblies (Zveçan and Leposaviq). Voting took place in some school facilities and in some containers which were placed as alternative centers, since in some schools it was not possible to vote because they are controlled by the structures that work according to the Serbian system, which is also opposed the elections. These elections were largely boycotted by citizens of Serbian nationality, therefore the number of voters who participated in these elections was small. After the elections, there was resistance to accept the placement of the elected mayors in the facilities of the respective municipalities, this was expressed by protests, which in some cases were violent, against members of the Kosovo Police, international security forces and journalists reporting from this area. During this period, the Ombudsperson has continuously expressed his position on the responsibility and obligation of the security authorities to take care of the respect of human rights even in such situations.

After the approval of Law no. 08/L-228 for the General Elections in the Republic of Kosovo, the Ombudsperson, in the meeting

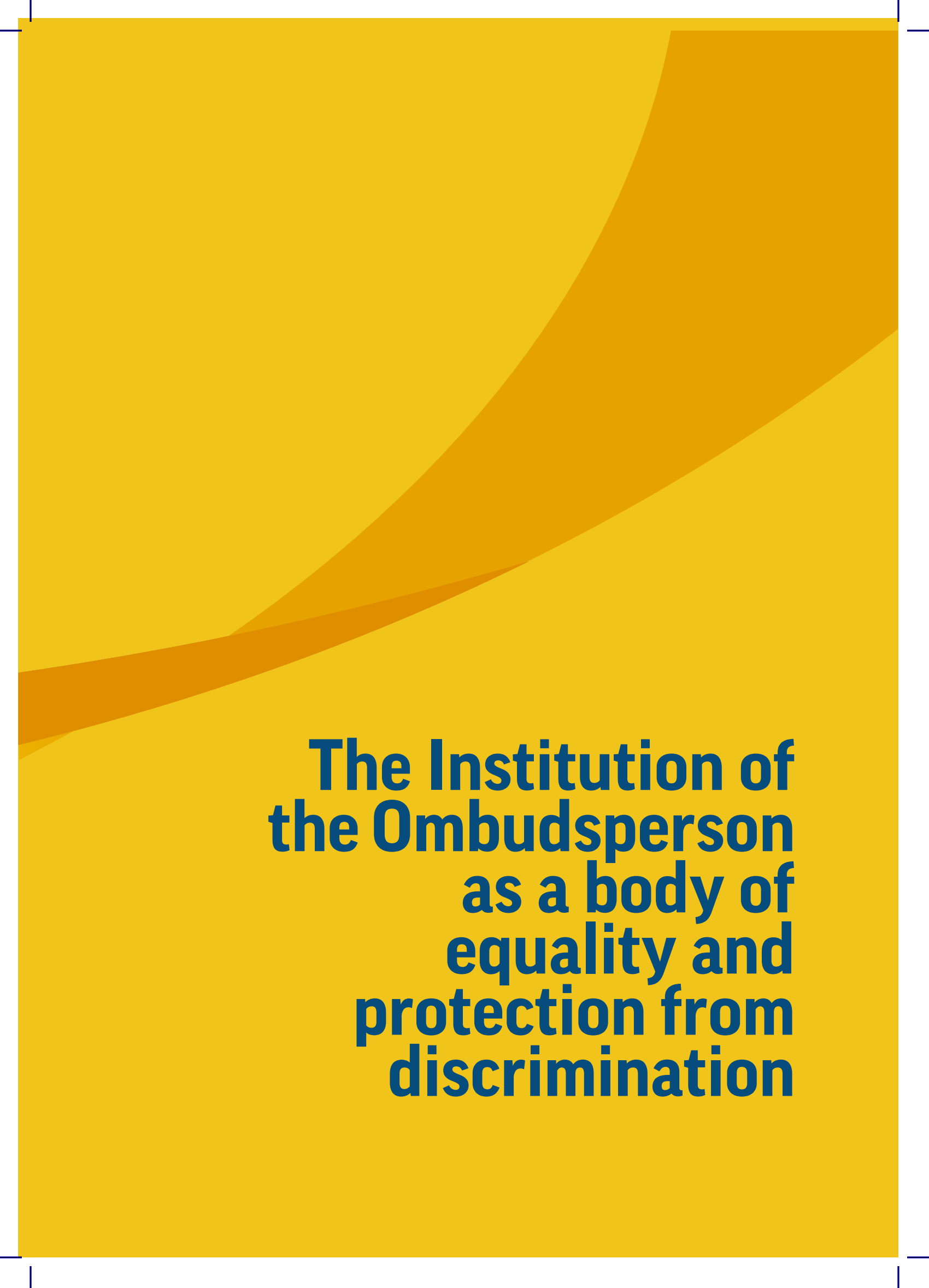
held within the Council for Democracy and Human Rights, has raised his concern about not changing the gender quota in the electoral lists of the parties political, with the amendment of Law no. 08/L-228 for the General Elections in the Republic of Kosovo. The Ombudsperson has assessed that the provisions of Article 28, which defines the quota of at least 30% of representation by women in the electoral lists, may not be in accordance with the Constitution of the Republic of Kosovo, in terms of equality before the law,⁶² and election rights and participation⁶³

The Ombudsperson has emphasized that he would welcome the initiative to amend and change Article 28 of Law no. 08/L-228 for the General Elections in the Republic of Kosovo, so that women and men are guaranteed equal factual access to candidacy in the electoral lists of political entities. In the absence of changes that reflect and guarantee the equal participation of women in the electoral lists, the law will be subject to constitutionality evaluation in the Constitutional Court.

61 Constitution of the Republic of Kosovo, Article 45;

62 Constitution of the Republic of Kosovo, Article 24;

63 Constitution of the Republic of Kosovo, Article 45;

The background is a solid yellow color. A large, dark orange, abstract shape, resembling a stylized arrow or a wedge, points upwards and to the right, starting from the bottom left and extending towards the top right. The text is centered in the lower half of the page.

**The Institution of
the Ombudsperson
as a body of
equality and
protection from
discrimination**

The Institution of the Ombudsperson as a body of equality and protection from discrimination

The Constitution of the Republic of Kosovo stipulates that the Ombudsperson supervises and protects the rights and freedoms of individuals from illegal and irregular actions or inactions of public authorities.⁶⁴ Whereas, for more than that, Law 05/L-019 on the Ombudsman determines that the Ombudsman is an equality mechanism for the promotion, monitoring and support of equal treatment without discrimination on the grounds protected by the Law on Gender Equality and the Law for protection from discrimination.

The role and mandate of the Ombudsperson is further specified by Law 05/L-019 on the Ombudsman, Law 05/L-021 on Protection from Discrimination and Law 05/L-020 on Gender Equality. The Law on Protection from Discrimination⁶⁵, defines the powers of the Ombudsperson, related to the implementation of this law. Whereas, the Law on Gender Equality,⁶⁶ defines the Ombudsperson as an equality institution that deals with cases related to gender discrimination.

The Law on the Ombudsman is an organic law and the procedures related to handling cases, including cases of discrimination defined by the Law on Protection from Discrimination and the Law on Gender

Equality, are implemented in accordance with the procedures specified by the Law on the Ombudsperson.

Findings of the Ombudsperson regarding discrimination in Kosovo

During 2023, the Ombudsperson continued to receive complaints alleging discrimination. The bases of discrimination claimed by the complaints received are related to ethnicity, gender, age, disability, political opinions, language, health status, discrimination in the workplace, exercise of the profession, as well as other bases. Also, ex officio cases have been opened. These officially opened cases are related to the assessment of Regulation no. 02/2023 for the Supplement for Labor Market Conditions, issued by the Ministry of Finance of Kosovo, which determines that employees who have completed studies according to the second level of higher education in study programs financed or co-financed by the Government of the Republic of Kosovo are entitled to additional benefits for labor market conditions. The case is under investigation. The other case has to do with the use of official languages in banks because there is information that the banks licensed in Kosovo on their portals and documents do not seem to implement bilingualism.

During the reporting year, 130 cases related to appeals were closed with a decision for rejection on any of the bases defined by Article 22 of the Law on the Ombudsperson. Meanwhile, 6 reports with recommendations and findings of discrimination have been published.

64 Constitution of the Republic of Kosovo, Article 132, paragraph 1

65 Law on Protection from Discrimination, Article 9, Article 12 and Article 18

66 Law on Gender Equality, Article 13

Age-based discrimination

The Ombudsperson has published a report with ex officio recommendations no. 989/2019⁶⁷ regarding the unequal treatment of citizens over 65 years old by insurance companies in Kosovo regarding health insurance.

The Ombudsperson has emphasized that every service of insurance companies should be available to all citizens, regardless of the age of the insured. The Law on Protection from Discrimination expressly prohibits age as a basis for any unjustified distinction or unequal treatment. All conditions of insurance companies, which are based on requirements for voluntary health insurance, must be objective and equal for all persons and must not be related to personal characteristics.

In this case, the Ombudsperson has concluded that the insurance companies in the Republic of Kosovo, with their a priori practice of denying voluntary health insurance for people over 65 years old, commit an act of direct discrimination based on personal characteristics - age, thus violating the provisions of Article 24 of the Constitution of the Republic of Kosovo as well as the provisions of the Law on Protection from Discrimination. The Ombudsperson has not yet received a response from the responsible authorities regarding the recommendations sent through the aforementioned report.

Social housing for the elderly

The Ombudsperson, in order to draw the attention of the competent authorities of the Republic of Kosovo to respect the rights

of elderly persons located in the homes of non-governmental organizations and in legal entities that provide social services for elderly persons, visited three legal entities⁶⁸ licensed to provide this service.

These visits resulted in the need to amend and supplement the Law on Social and Family Services, in order to include all legal guarantees for respecting the rights of elderly persons; to create a database for the identification of elderly persons under social care by legal entities and by non-governmental organizations which must have employed (committed) social workers and psychologists as part of their staff; to strengthen the Unit for Monitoring and Inspection of Social Services, through increasing the capacities of the staff; to organize adequate training for social care workers for the treatment of elderly persons; The General Council of Social and Family Services must be effective and functional in its legal responsibilities; The Ministry of Justice must take all measures to ensure that public and private institutions, which provide social services, meet all standards and criteria for the dignified and non-discriminatory treatment of all elderly persons in social care.

All of these have been found in the report⁶⁹ addressed to the competent authorities with clear recommendations for measures to ensure respect for the rights and dignified treatment of elderly people who are sheltered in these centers.

Contribution-paying pensions in the Republic of Kosovo

The Ombudsperson, on July 10, 2023, organized a roundtable discussion⁷⁰ on the

67 Institution of the Ombudsperson, Report with recommendations Ex-Officio 989/2019 regarding the unequal treatment of citizens over 65 years old by insurance companies in Kosovo regarding health insurance, December 14, 2023, accessible at: <https://oik-rks.org/2023/12/14/raport-i-avokatit-te-popullit-ex-officio-nr-2272019/>.

68 Home for the Elderly "FLORA", Home for the Elderly "Germania Likastro" and Home for the Elderly "Orphans of the Balkan"

69 <https://oik-rks.org/en/2023/09/08/ombudspersons-ex-officio-report-no-5982022-concerning-the-respect-of-elderly-persons-rights-by-non-governmental-organizations-and-private-legal-entities-which-provide-social-care/>

70 <https://oik-rks.org/2023/07/12/komunikate-per-media-avokati-i-popullit-mbane-tryeze-lidhur-me-skemat->

issue of pension schemes, with special emphasis on contributory pensions in general and in the spirit of developments after the Constitutional Court Judgment KO190/19, dated January 16, 2023.

At the table, it was concluded that the approval of the amendment to the Law on Pension Schemes financed by the state, has preserved the spirit of the provisions of the basic law, recognizing the contribution-paying seniority for the period 1989 - 1999, but on the other hand, it continues to require the fulfillment of the criterion for 15 years of contributory seniority, to benefit from the contributory age pension. The Ombudsperson considers that the establishment of the contribution-paying seniority criterion for 15 years continues to deny citizens the realization of their rights and in this way they are denied equal treatment before the law, as defined in the Judgment KO 190/19.

As for other pension schemes defined by the Law on State-Funded Pension Schemes, the Ombudsperson estimates that other schemes such as the right to work disability pension and the right to family pension have not been implemented, despite the fact that they are defined by law that leads to a violation of Article 1, Protocol 12 of the ECHR, which refers to the general prohibition of discrimination.

Discrimination on the basis of disability

During the year 2023, the Ombudsman in order to investigate the respect of the right to access to sidewalks, public spaces and the free movement of citizens as well as the respect of the right to a safe and healthy living environment has published Ex officio Report no. . 648/2021.

This report reflects the state of the

infrastructure for the free and unimpeded movement of pedestrians, against the physical access needs of citizens in public spaces, with special emphasis on persons with physical or visual disabilities. The report is based on the research carried out directly in the field, in three cities of Kosovo and in Prishtina, Prizren and Ferizaj. The findings of this report show that the most frequent barriers and obstacles that limit free and unimpeded movement in public spaces are: lack of tactile elements (87.3%), which would serve blind people for unassisted/independent movement in city; the presence of physical obstacles in the space of the sidewalks, which prevent the movement of Persons with Disabilities (62.4%) as well as damage to the sidewalks (31.3%).

The Ombudsperson in this report, on the basis of field research, has found that there is a delay in the implementation of the technical norms of UA 33/2007 for the elimination of architectural barriers from the built environment during the design phase, the issuance of the construction permit and the construction process. It also exposes the problems of non-implementation of the legal framework in force that regulates spatial planning, as well as the one for protection against discrimination, the lack of monitoring and inspection of public and private construction works, the lack of inspection and punishment of violations by businesses and by private persons, who prevent the movement of all citizens on the sidewalks, through usurpation, damage and narrowing of the public space in the city.

In order to assess the respect of the right of persons with disabilities to access public facilities, the Ombudsperson has published the report with ex officio recommendations no. 479/2022⁷¹ regarding the assessment of accessibility for persons with disabilities based on Administrative Instruction no.

pensionale-te-financuara-nga-shteti-me-theks-te-vecante-tek-pensionet-kontribut-paguese/
71 Institution of the Ombudsperson, Report with recommendations Ex Officio no. 479/2022, December 29, 2023, accessible at: <https://oik-rks.org/en/2023/12/29/report-of-the-ombudsperson-ex-officio-no-4792022-with-regard-to-assessment-of-accessibility-of-persons-with-disabilities-based-on-administrative-instruction-no-332007-for-construction-buildings-tec/>

33/2007 on the Technical Conditions of Building Facilities for the Access of Persons with Disabilities in the municipalities of the Republic of Kosovo. For the purposes of the said report, the Ombudsperson has compiled a questionnaire of 41 questions compiled in accordance with the criteria of Administrative Instruction no. 33/2007. From the 38 municipalities of the Republic of Kosovo, to which the Ombudsperson has sent a request for filling in the questionnaire, 21 municipalities have sent answers, while 17 municipalities have not responded to the Ombudsperson's request. Based on the information that the 21 municipalities have sent, the average percentage of criteria fulfilled by all municipalities together is 41%. Whereas, 17 municipalities that did not respond to the Ombudsperson's requests were not included in the calculation of the average percentage of fulfilled criteria. In this report, the Ombudsperson emphasized that the municipalities have full and exclusive competence to undertake actions in order to remove all obstacles that prevent access to facilities and public spaces for persons with disabilities. These powers are also defined in Law no. 04/L-110 for Construction, in which the legal framework is defined, which regulates the issuance of construction permits, compliance with the requirements of the construction permit and the issuance of the certificate of use within the territory of the Republic of Kosovo.

The Ombudsperson has directed recommendations to the municipalities that do not meet the legal criteria regarding the access of persons with disabilities to public spaces and buildings to take measures to meet the legal criteria regarding the access of persons with disabilities to facilities and in public spaces.

Also, a recommendation has been addressed to the Ministry of Environment, Spatial Planning and Infrastructure, to issue new administrative instructions for the technical conditions of construction facilities for the access of persons with disabilities in the municipalities of the Republic of Kosovo, in accordance with the Law no. 04/L-110 for Construction, since Administrative Instruction 33/2007 was issued pursuant to Law no. 2004/15 on Construction, this law which is not in force.

Recommendations have also been addressed to the municipalities that have not responded to the Ombudsperson's requests, together with the finding that failure to respond to the Ombudsperson's requests constitutes a violation of Article 132, paragraph 3 of the Constitution of the Republic of Kosovo and Article 25 of Law No. 05 /L-019 for the Ombudsperson.

In order to assess the implementation of the legal obligation for the employment of persons with disabilities in central institutions and local self-government bodies in Kosovo, the Ombudsperson has published a report with ex officio recommendations no. 519/2022⁷².

The purpose of this report is to measure the level of employment of persons with disabilities in accordance with the provisions and legal obligations, in particular with Law No. 03/L-019 on Training, Vocational Retraining and Employment of Persons with Disabilities.⁷³ For this purpose, the Institution of the Ombudsperson developed an investigation, the subject of which were the Government of the Republic of Kosovo and 38 municipalities in the Republic of Kosovo.

As for the central level, the Ombudsperson received a response from the Office for Good Governance, where it is announced that at

72 Institution of the Ombudsperson, Report with recommendations Ex Officio no. 519/2022 regarding the employment of persons with disabilities in central institutions and local self-government bodies in Kosovo, December 18, 2023, accessible at: <https://oik-rks.org/2023/12/18/raport-i-avokatit-te-popullit-ex-officio-nr-5192022-ne-lidhje-me-punesimin-ne-institucionet-qendrore-dhe-ne-organet-e-vetqeverisjes-lokale-ne-kosove-te-personave-me-aftesi-te-kufizuar/>.

73 Law No. 03/L-019 on Training, Professional Retraining and Employment of Persons with Disabilities, article 12, paragraph 2, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2620>.

the central level, which includes the Office of the Prime Minister and 15 ministries, 3 ministries do not meet the legal criteria for the employment of persons with disabilities, while 6 ministries partially meet this criterion.

At the local level, out of 38 municipalities, 26 of them sent answers, from which it turns out that 7 municipalities do not meet the legal criteria for the employment of persons with disabilities, 8 municipalities partially meet the legal criteria for the employment of persons with disabilities, 4 municipalities did not provide data on the employment of persons with disabilities, while 12 municipalities did not respond to the Ombudsperson's requests, despite the constitutional and legal obligations to cooperate and respond to the Ombudsperson's requests.⁷⁴

After investigating the case, the Ombudsperson, among other things, came to the conclusion that in the case there is a violation of Article 1, Protocol 12 of the European Convention on Human Rights, which refers to the general prohibition of discrimination, which defines: *"(1) The enjoyment of any right provided by law must be ensured without any discrimination based on reasons such as gender, race, color, language, religion, political or any other opinion, national or social origin, connection with a national minority, wealth, birth or any other status... (2) No one shall be discriminated against by a public authority for any of the reasons provided for in paragraph 1"*.

The obligation to employ persons with disabilities is provided for by Law No. 03/L-019 for Training, Vocational Retraining and Employment of Persons with Disabilities.

Therefore, the Ombudsperson sent recommendations to the ministries and municipalities which, based on the conducted investigation, appear not to fulfill this obligation, to take specific targeted measures in accordance with the legislation in force in order to fulfill the legal obligations related to employment of persons with disabilities.

The Ombudsperson in order to analyze the legal basis of the re-evaluation of the disability for the recognition of the status of paraplegic and tetraplegic persons according to Law no. 05/L-067 on the status and rights of paraplegic and tetraplegic persons, has addressed ex officio report no. 521/2022⁷⁵.

The Ombudsperson has concluded that the Law does not determine the reassessment of the status of paraplegic and tetraplegic persons in Kosovo, therefore the reassessment of permanent disability has no legal basis and violates the dignity of paraplegic and tetraplegic persons due to the practical difficulties they have for to be presented before the Evaluation Committee.

The Ombudsperson has pointed out that when it comes to the legally recognized benefits of disabled persons, in this case paraplegic and tetraplegic persons, the fact should be taken into account that as long as there is a recognized degree of disability, the benefits and recognized rights cannot be limited or reduced even by changing the law itself. Even the ECHR, in the case of *Béláné Nagy against Hungary*, Judgment of February 10, 2015⁷⁶ in which this court emphasized that although states have a certain margin of appreciation for regulating access to care provided in relation to disability, since this right once granted, the state cannot go so far as to deprive the holder of the very essence of this right. Therefore, the Ombudsperson has

74 Constitution of the Republic of Kosovo, article 132, paragraph 3. Law no. 05/L-019, article 25, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10922>.

75 Institution of the Ombudsperson, Report with recommendations Ex Officio no. 512/2022, December 22, 2023, accessible at: <https://oik-rks.org/2023/12/22/raporti-i-avokatit-te-popullit-ex-officio-nr-5212022-lidhur-me-bazen-ligjore-te-ri-vleresimit-nga-komisioni-per-vleresimin-dhe-percaktimin-e-procedurave-per-njohjen-e-statusit-dhe-te-drejtave-te-pe/>.

76 European Court for the Protection of Human Rights, *Béláné Nagy v. Hungary*, 10 February 2015, accessed at:

concluded that the legitimate expectations of paraplegic and terapeutic persons have been violated.

In addition, the Ombudsperson has found that the limitation of human rights defined by the legal acts approved by the Assembly (Constitution and laws) through the sub-legal acts approved by the Government is contrary to Article 55, paragraph 1, of The Constitution of the Republic of Kosovo, which stipulates that: "The basic human rights and freedoms guaranteed by this Constitution can only be limited by law", thus violating the principles of the rule of law.

The Ombudsperson has recommended the MFLT to complete and amend Regulation (QRK) No. 07/2017 on the Composition, Functioning, Responsibilities of the Evaluation Commission and Determination of Procedures for Recognition of the Status and Rights of Paraplegic and Tetraplegic Persons and to initiate the procedures for the amendment and completion of Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons in such a way that the obligation to re-evaluate the first group of paraplegic and tetraplegic persons is completely removed, and that the re-evaluation should be done only for the persons of the second group, only in situations where there is a deterioration of the health condition in order to grant appropriate benefits.

General practices that contradict the principle of non-discrimination

The Ombudsperson, based on the investigated cases, has analyzed the practices implemented by the authorities that contradict the principle of non-discrimination:

- The practice of the competent authorities in non-implementation or incorrect implementation of the provisions of the laws.

- The practice of executive authorities not to reflect the positions of the Constitutional Court in lawmaking.
- Establishing discriminatory criteria based on protected characteristics in the provision of services and realization of rights, such as the case of age discrimination by insurance companies and
- The practice of not implementing the special procedures that are defined in the Law on Protection from Discrimination, such as; deficiency in the priority treatment of cases as required by the Law on Protection from Discrimination, deficiency in determining the protected basis, burden of proof in cases of discrimination, deficiency in determining the obligation not only to compensate the victims of discrimination but also the obligation of the parties responsible for eliminating discriminatory obstacles.

Gender equality

Constitution⁷⁷ defines that *"the Republic of Kosovo ensures gender equality as a fundamental value for the democratic development of society, equal opportunities for the participation of women and men in political, economic, social, cultural life and in other areas of social life"*, while the Law on Equality Gender⁷⁸, defines the Ombudsperson as an equality institution that deals with cases related to gender discrimination.

In order to exercise its mandate as an institution of equality, the Ombudsperson has dealt with and concluded two issues related to gender equality.

Gender equality in the right to work

The first case concerns the implementation of the special measures provided for in Article 6, with special emphasis on paragraphs 2 and 7 of Law No. 05/L-020 on Gender

⁷⁷ Constitution, article 7, paragraph 2

⁷⁸ Law on Gender Equality, Article 13

Equality, by the legislative, executive and judicial bodies, at all levels, as well as other public institutions in Kosovo, to achieve the representation of the less represented gender, until the achievement of equal representation of women and men according to this law.

According to Law No. 05/L-020 on Gender Equality, public institutions are obliged to take special temporary measures in order to accelerate the realization of factual equality between women and men in those areas where inequalities exist. These measures should cease to exist once the gender equality objectives for which they were created have been achieved.

For this purpose, the Ombudsperson has provided information from public authorities in the country. From the preliminary data, it appears that the employment level of women in public institutions is about 40% at all levels, including the management level.

However, despite the satisfactory preliminary statistics, during the reporting year, the Ombudsperson also received complaints with allegations of discrimination at work on the basis of gender, in the case of promotion or even undertaking disciplinary measures by the employer.

Gender equality in the right to property and inheritance

Regarding the right to property and taking into account the basis of property acquisition, according to which a person becomes the owner with the registration of the property right in the cadastral registers, the Ombudsperson refers to the data from the Kosovo Cadastral Agency reflected in the Annual Report for 2023.⁷⁹ According to this report, a growing trend in the registration of joint property can be observed. In 2019, there were 1464 registrations; in 2020 there were 1583 registrations; in 2021 there were

3042 registrations; in 2022 there were 4230 registrations and in 2023 there were 5104 registrations.

Undoubtedly, Administrative Instruction (QRK) No. contributed to the increase in registrations. 03/2016 on Special Measures for the Registration of Joint Real Estate in the Name of Two Spouses, the deadline of which has been extended by Government Decision No. 08/68 dated 23.03.2022.

However, the number of women owners still remains low. According to the official data published on the website of the Cadastral Agency of Kosovo regarding the number of registered properties and owners, they are as follows: The total number of owners is 612,018, of which 478,642 (78.21%) are men, while 121,114 (19.79%) are women.

During the reporting year, the Ombudsperson has raised as a concern the protection of women's property rights, mainly based on the very low participation of women in the division of joint property created during marriage, joint family property and participation in rights ownership based on inheritance. The Ombudsperson estimates that these issues require a complete analysis in relation to the shortcomings in the legislation and the need to change the laws, especially regarding the procedural aspects for the initiation of administrative and judicial procedures.

The responsibility of public authorities for protection against domestic violence

The Ombudsperson, through addressed reports, has continuously drawn the attention of the authorities to the positive obligations of the state in terms of taking appropriate measures for the protection of the right to life and protection from domestic violence, finding that these measures must be coordinated, effective and in accordance with legislation

⁷⁹ <https://akk.rks-gov.net/storage/app/media/raporti-dhjetor-2023-web-view.pdf>, 16.5 Gender equality, p. 130-131

and standard operating procedures⁸⁰.

The number of reported cases of domestic violence, which according to the data provided by the Kosovo Police, has reached 2460 cases this year, continues to remain worrying.

In relation to the developments that have taken place this year in this field, we should mention the Judgment of the Constitutional Court in case no. K1129/21, related to the evaluation of the constitutionality of the "actions and omissions" of the Basic Court in Gjilan, the Basic Prosecutor's Office in Gjilan, the Police Station in Graçanica and the Basic Prosecutor's Office in Prishtina. The case concerns the murder of S. M. by her husband on March 14, 2021. The Constitutional Court found that the state authorities had failed to protect S. M.'s right to life.

Regarding this case, the Ombudsperson published the Report *ex officio*. No. 150/2021, which has identified the failures of the responsible authorities in protecting the right to life.

Also, on September 21, 2023, the Assembly of the Republic of Kosovo approved the Law on prevention and protection from domestic violence, violence against women and gender-based violence. The novelty of this law is that the responsibilities of the Office of the National Coordinator for Protection from Domestic Violence, the financing of shelters, the collection and electronic management of data, the functionality of local coordinating mechanisms that have not been so far included in the law.

Female victims/survivors of sexual violence during war

Considering the ongoing concerns raised about issues related to the process of verification and recognition of the status of the victim of sexual violence during the war in Kosovo, the challenges and difficulties

faced by the victims of sexual violence during the war, as well as the obstacles in realizing the benefits that belong to the victims on the basis of the law, the Ombudsperson in 2023 initiated investigations on this matter, according to official duty⁸¹.

The handling of this issue by the Ombudsperson and the perspective of the protection of basic human rights and freedoms, focuses on the observance of legal deadlines by the commission, in the process of handling applications for verification and recognition of the victim's status; individualization of the reasoning of the decisions for each case separately, avoiding template or the same reasoning for different cases; limiting the deadline for submitting applications; the organization and implementation of the process of interviewing the victims as well as the access of the victims to the spaces where the interview is carried out; as well as raising awareness and sensitizing the public opinion for the application for recognition and verification of the status of the victim.

According to the legal framework in force, victims of sexual violence during the war are not beneficiaries of benefits in primary, secondary and tertiary health services, except for health services abroad for the deteriorated health condition, as a result of the war. This fact is disturbing and will be dealt with in the framework of the investigations initiated on this issue.

According to the data provided by the Government Commission for the Recognition and Verification of the Status of Persons Raped during the Liberation War of Kosovo, it appears that since the beginning of the application process, the commission has managed to review 1,961 applications, of these 1,598 applicants have been recognized for their status, 305 requests have been rejected, while 19 applications are pending for consideration.

80 <https://oik-rks.org/en/2022/07/22/ombudspersons-report-ex-officio-no-132022-with-regard-to-states-positive-obligations-to-protect-the-right-to-life-and-to-ensure-protection-from-domestic-violence/>

81 Ex-officio case no. 436-2023

This year, the Assembly of the Republic of Kosovo has approved Law no. 08/L-219, with which the deadline for applications for recognition of the status of victims of sexual violence during the war in Kosovo has been postponed until May 15, 2025, with the possibility of postponement for an additional term of two years. The establishment of time limits has been criticized by non-governmental organizations licensed to accept applications for verification and recognition of status, due to the fact that the application deadline is considered problematic and contrary to international practices and principles, based on the fact that crimes of war are not prescribed, with the request to follow the practice applied in the countries of the region where this term is unlimited.

The Special Prosecutor's Office of Kosovo (SPOK), in 2023, filed in the Basic Court in Pristina - Special Department, the first indictments for trial in absentia, against those accused of violence during the war in Kosovo, namely the first indictment was filed on May 2, 2023.⁸² Also, the Supreme Court of Kosovo has decided on the first case of punishment for sexual violence during the war⁸³, rejecting as unfounded the requests for the defense of the legality of the defender of the convicted and of the convicted Z.V., presented against the judgment of the Basic Court in Pristina - Special Department SP.nr.28/2022 dated 11.11.2022 and the judgment of the Court of Appeal of Kosovo - Special Department APS.nr.50/2022 dated 15.02.2023.

The rights of LGBTIQ + persons

The Ombudsperson continues to assess that LGBTIQ+ persons in Kosovo remain vulnerable in terms of the realization and respect of the rights guaranteed by the Constitution and the law. However, there are no complaints from LGBTIQ+ persons addressed to the Ombudsperson. Despite

this, the Ombudsperson remains committed to the protection and promotion of the rights of LGBTIQ+ persons.

In this regard, the Ombudsperson, in cooperation with the CSGD civil society organization, has drawn up a guide for handling cases of LGBTIQ+ persons. This guide will assist Ombudsperson Institution officials in providing professional, quality and appropriate services to LGBTIQ+ persons, focusing on treating them with dignity as well as their specific needs and challenges.

Also, the guide aims to encourage and help other public institutions to provide better and more sensitive services to LGBTIQ+ people. In this way, the guide will help promote the respect and protection of the rights of LGBTIQ+ persons in all spheres of society in Kosovo.

The Ombudsperson pays attention to language in public discourse in relation to the state's obligations in guaranteeing freedom of expression and preventing hate speech. Attention has been paid to the language used towards LGBTIQ+ persons in the parliamentary sessions of the Assembly of the Republic of Kosovo, televised debates and comments on social networks. In relation to this issue, the Ombudsperson is already finalizing a special report.

Implementation of the Law on Protection from Discrimination

The Ombudsperson has noticed that there is a lack of statistical data on cases, complaints and procedures initiated in judicial and administrative bodies based on the Law on Protection from Discrimination. This happens because the authorities do not keep separate data for cases of this nature. As a result, it is impossible to extract data on the cases initiated based on this law and this greatly complicates the evaluation of the implementation of this law.

82 Sistemi Prokurorial i Republikës së Kosovës (prokuroria-rks.org)

83 List of judgments - Supreme Court (gjyqesori-rks.org), Judgment no. 2020:036349, Pml.no.415/2023

From the analysis of the Law on Protection from Discrimination, the Ombudsperson has also come to the conclusion that the law does not clearly define the powers and responsibilities in the procedures for handling cases of discrimination, not defining the responsible authorities, especially in the offense procedure. There is also uncertainty in relation to the mediation procedure and the administrative procedure.

Also, it is evident the need for the intensification of activities and awareness campaigns in promoting and informing the public about this law and the guarantees it offers, moreover, the necessity for the professional development of the officials responsible for the implementation of this law has been identified⁸⁴.

Among other things, it has been observed that the Law on Protection from Discrimination, in the part that defines the powers and responsibilities of the Ombudsperson, is not entirely in harmony with the Law on the Ombudsperson.

Taking into account the findings above, it appears that the citizens of the Republic of Kosovo are very little informed about the rights and guarantees offered by this law. Given that the law contains ambiguities, a lack of clear definition of competences, the Ombudsperson considers the ex post evaluation⁸⁵, in which the opinions of the OIK are integrated, to be an important step. In this regard, the Ombudsperson considers it necessary to change and complete the law in order to find the complete implementation.

Normative acts in relation to the non-discrimination principle

Law no. 08/L-196 for Public Sector Salaries

The Ombudsperson has received over 130 complaints related to Law no. 08/L-196 on Public Sector Salaries, which entered into force on February 5, 2023. The Ombudsperson, among other things, noted that the law in general has created a situation where all employees have not been treated fairly equal, taking into account the fact that in some sectors there was a decrease and in some sectors there was an increase in wages. Furthermore, the reduction and promotion were not based on a linear system, not even within certain sectors, which resulted in some employees being demoted, and others promoted, within the same organization.

For this and other reasons, the Ombudsperson, on April 7, 2023, raised the case in the Constitutional Court with the request for the assessment of the constitutionality of the law.⁸⁶

The Constitutional Court, on December 26, 2023, decided in case no. KO79/23 regarding the evaluation of the constitutionality of Law no. 08/L-196 on Public Sector Salaries. The Court has concluded that certain provisions of the law are not in compliance with paragraph 1 of Article 24 [Equality before the Law] of the Constitution in conjunction with Article 14 (Prohibition of discrimination) of the ECHR- of; with paragraph 1 of Article 24 [Equality before the Law] of the Constitution in conjunction with Article 1 (General prohibition of discrimination) of Protocol no. 12 of the ECHR.

84 Law on Protection from Discrimination, Article 25

85 <https://kryeministri.rks-gov.net/wp-content/uploads/2023/09/ALB-Raporti-per-Vleresimin-Ex-Post-te-Ligjit-per-Mbrojtje-nga-Diskriminimi.pdf>

86 Institution of the Ombudsperson, press release, 07.04.2024, accessible at: <https://oik-rks.org/en/2023/04/07/press-release-the-ombudsperson-submits-to-the-constitutional-court-the-law-no-08l-196-on-salaries-in-the-public-sector-with-a-request-for-review-of-compatibility-of-the-same-with-the-constitution/>

Law no. 08/L-228 for the General Elections

Article 28 of Law no. 08/L-228 for the General Elections in the Republic of Kosovo determines the gender quota in the lists of candidates of each political entity according to which at least thirty (30%) percent are men and at least thirty (30%) percent are women .

Determining the quota (at least 30%) for each gender does not appear to represent unequal treatment between men and women, however, in practice there have been no cases when political subjects have sent for certification lists of candidates with 50% women and 50% % men. Setting the criterion of 30% justifies the unequal treatment because the political subjects fulfill the legal criterion to compete in the elections by sending the list of candidates with 30% women to the electoral lists, while the rest is left to their will, therefore in practice women continue to be under-represented.

The Ombudsperson has analyzed the lists of political entities that competed in the general elections of February 14, 2021, from which it can be seen that these lists consisted of 30% women and 70% men. In practice, it is observed that women were represented by 30% while men by 70%. Whereas, it has been observed that in almost all the lists with candidates of political entities, every third candidate was a woman, while the first two candidates were men.

Stating a quota (at least 30%) for each gender represents a kind of unjustified bias, considering that the gender ratio between the sexes is almost 50% to 50%, with small differences. According to the data of the Statistics Agency of Kosovo from the population census in Kosovo in 2011, the gender ratio turns out to be 50.34% male and 49.66% female. It is noted that the trend of the percentage between men and women is almost equal, therefore the setting of the quota of 30%, as was done in the repealed law as well as in the contested law, is contrary to equality before the law practically and by law

, in terms of gender equality.⁸⁷

Law no. 08/L-248 on Amendment and Supplement to Law no. 04/L-131 for State-Funded Pension Schemes

The Ombudsperson has noted that Law no. 08/L-248 on the Amendment and Supplement to Law no. 04/L-131 on State-Funded Pension Schemes, announced in the Official Gazette on August 16, 2023, has preserved the spirit of the provisions of the basic law, the amendment of which was requested by the Ombudsperson as early as 2018, through the Report with ex officio Recommendations 235/2018, which was published on April 6, 2018.⁸⁸ Also, the Judgment of the Constitutional Court KO190/19, dated January 16, 2023, orders that citizens dismissed from work in the 90s, who were dismissed as a result of violent discriminatory measures, had not managed to meet the criterion of 15 years contribution-paying experience, so that this right is recognized through the amendment of this law.

It seems that the law in essence did not act according to the Judgment of the Constitutional Court KO190/19 and it is understood that the amended provision recognizes the contribution-paying seniority for the period 1989 - 1999, but on the other hand it continues to require the fulfillment of the criterion for 15 years of contribution-paying, in order to benefit age contributory pension. The Ombudsperson considers that despite the recognition of work experience for the period 1989-1999, the establishment of the contribution-paying experience criterion of 15 years continues to deny the realization of the right to citizens who have paid contributions, but who do not reach the 15-year criterion . In this way they are denied equal treatment before the law, and the consequences of violent and discriminatory measures still continue to have an effect.

87 Kosovo Statistics Agency, Population 2011, accessible at: <https://ask.rks-gov.net/>

88 Ombudsperson Institution, Report with recommendations Ex-Officio 235/2018, April 6, 2018, accessible at: <https://oik-rks.org/en/2018/04/06/ex-officio-no-2352018-recommendation-report-of-the-ombudsperson-of-the-republic-of-kosovo-related-to-the-category-of-citizens-who-worked-before-1999-and-do-not-benefit-from-the-age-contribution/>

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The Rights of Communities and their Members

The Rights of Communities and their Members

The Republic of Kosovo guarantees the freedoms and rights of communities and their members, who enjoy special rights, defined by the Constitution⁸⁹. Also, Law No. 03/L-047 for the Protection and Promotion of the Rights of Communities and their Members in the Republic of Kosovo guarantees full and effective equality for all the people of Kosovo.

During 2023, the number of complaints submitted by members of non-majority communities to the OIK has increased compared to 2022. By the end of 2023, the OIK has received 251 complaints, of which 161 have been opened for investigation. The largest number of complaints were submitted by members of the Serbian community (154 complaints). The problems faced by the members of the non-majority communities are still the same as in previous years, which should be one of the indicators that the authorities have an obligation to deal more consistently with the issues that the OIK reports on the problems of the communities from year to year. The problems faced by non-majority communities can not only be observed through complaints submitted to the OIK, but also by looking at the entire situation on the ground, which the OIK constantly monitors and reports to the public, as well as public authorities through annual reporting and reports of special.

As in previous years, the problems faced by non-majority communities are related to return and security, integration, property rights, education, use of the official language, employment, etc.

The state of the rights of the members of the Serbian community

Complaints submitted to the Ombudsperson by members of the Serbian community are generally similar to complaints filed by other citizens in the Republic of Kosovo and are related to: property rights; integration of returnees; duration of court proceedings; incomplete implementation of the Law on the use of languages; problems related to the provision of personal documentation for persons who lived in Kosovo until 1999, for their spouses and children; issues from labor relations and exercising the right to pension, etc. Some of these complaints contain allegations that there has been discrimination mainly based on ethnicity, in relation to education, health services, etc.

The challenges faced by displaced persons and returnees are: usurpation of property and deprivation of property rights; non-execution of court decisions, which usually refer to real estate; lack of access to educational institutions; economic situation; unemployment; infrastructure problems; bad social condition; stable return; problems with the implementation of language rights, etc.

The reaction of the central and local institutions and the Kosovo Police to incidents in which the targets of attacks may be Kosovo Serbs and their properties have marked progress over the years. Public condemnation of such phenomena, taking adequate targeted measures and more frequent visits by the relevant representatives of the central and local institutions of the system to the affected persons are very important, all with the aim of building mutual trust.

Return and safety

Based on the data of the High Commissioner for Refugees (UNHCR), this year 17 people from non-majority communities have returned to Kosovo, which is almost double the number of returnees compared to last year. The collective centers in the north of Kosovo

89 Constitution of the Republic of Kosovo, Article 57

are still functioning, even though years ago it was planned that the residents living there would be provided with stable housing. The 137 people who have been living in four collective centers in northern Kosovo since 1999 are still waiting for permanent housing and the creation of better opportunities. Displaced persons, returnees who have now and previously returned to Kosovo continue to state that their biggest concerns are integration and economic prospects, unresolved property issues, infrastructure problems, not knowing the language of the majority community and lack of opportunities to learn the Albanian language, difficulties in obtaining personal documents, etc.

The Ministry of Communities and Returns (MCR) has helped and provided support to all returnees and communities in Kosovo, in accordance with its mandate and powers. The OIK appreciates the work of MCR in increasing the capacities of assistance to the non-majority population, not only in providing assistance to returnees, but also in implementing a large number of projects involving civil society organizations from all communities. The Government of Kosovo has allocated 3,000,000 euros for projects that mainly included employment, the engagement of interns in organizations, as well as the organization of training implementations with an emphasis on vulnerable groups of society, such as women, young people, people with special needs as well as other marginalized groups within non-majority communities. The projects also included increasing the capacity of NGOs to promote and protect the rights of communities, as well as strengthening the cooperation and partnership of NGOs with other actors.

The Ombudsperson appreciates the measures taken by the government to support more than 100 families in need, belonging to non-majority communities, with construction materials, household appliances, furniture, as well as food and hygiene packages. Also, the allocation of funds to 42 civil society organizations, for the implementation of

projects related to capacity building in the field of education, culture, sports, health and religious events.

During the year 2023, there were no concrete developments and no meeting of the working groups of the Inter-institutional Initiative for Displaced Persons and Refugees from Kosovo, which is better known as the "Skopje Initiative", was held. During 2023, the aforementioned initiative has only continued the process of civil registration of displaced persons from Kosovo to the Republic of North Macedonia, namely for 24 displaced persons belonging to the Roma community, who were issued personal documents at the end of the year 2023.

According to the OSCE, during the year 2023, about 120 incidents between members of the Serbian and Albanian communities were recorded, the vast majority of which occurred in the north of Kosovo. Whereas, according to the data provided by the Kosovo Police, 31 possible inter-ethnic cases were reported during 2023, of which 4 cases are against the Serbian community.

The rights of property

Based on the received complaints and concerns raised by the members of the non-majority communities, it is observed that there continue to be difficulties in the realization of property rights, taking into account the genesis of the property legal problems of the last 24 years. One of the causes that makes it difficult to realize property rights is the inefficiency of the judiciary and the procrastination of judicial procedures.

The OIK has received two complaints from some citizens of the municipality of Leposaviq and Zubin Potok, regarding the issue of expropriation by decision of the Government of the Republic of Kosovo, with the claim of the complainants that in the case of expropriation, the previous procedures required for expropriation were not respected

The Ombudsperson has opened an investigation into this case and from the

information provided so far, it appears that the case is being handled in court. While from the response received by the Government, it is understood that in relation to this issue, no final decision for expropriation was issued, but a (preliminary) decision was issued for notification that the expropriation procedures will be carried out. The case continues to be monitored by the Ombudsperson in order to ensure that in this process the principles and legal procedures defined in the Law on Expropriation of Real Estate will be respected.

Education

Functioning in two separate educational systems is a challenge not only for the system, but also for those who work directly in education, as well as for the students attending the lessons. The situation is aggravated by the fact that even this year the agreement on the recognition of diplomas between the Republic of Kosovo and Serbia has not started to be implemented. As a result of this, it comes to the impossibility of further education in Kosovo and employment of young people who attend primary and secondary education, according to the system of the Republic of Serbia.

The Ombudsperson appreciates the fact that this year, MEST has started verifying diplomas. According to civil society organizations, the verification process is slow and only 50 diplomas have been verified during 2023. Also, it should be noted that important steps have been taken in the direction of verification of primary and secondary education diplomas for students attending schools according to the education system of the Republic of Serbia. This initiative enables the integration of non-majority communities in the education system of Kosovo and the motivation of young people to choose higher education within the education system of Kosovo after high school.

The Ombudsperson welcomes and positively evaluates such initiatives and calls on the authorities to approach the solution of the problem with greater consistency in terms of education, so that all citizens can benefit and integrate into the society in which they live without distinction.

The continuation of the work of the Department of Balkan Studies, for Albanian and Serbian language studies, at the Faculty of Philology of the University of Pristina, where 17 students have been enrolled in the academic year 2023/24, has also been positively evaluated.

Language use

Although Kosovo has an advanced legislative framework for the equal use of the Albanian and Serbian languages as official languages in the country, as well as the languages of other communities in official use, in practice the respect of linguistic rights is being conveyed with difficulty.

The Ombudsperson continuously monitors the implementation and respect of the linguistic rights of the citizens of Kosovo, on which he regularly reports in his annual reports. From this monitoring it appears that members of the Serbian community and other communities that use the Serbian language, who live in areas with an Albanian majority population and Albanians living in the north of Kosovo and the municipalities where the majority of members of the Serbian community live, have difficulties in realizing of language rights. This implies that they have limited access to official documents and information related to health care issues, education, social services, etc.

The Ombudsperson has noticed linguistic inconsistencies and problems regarding the quality of the translation of legal acts, especially the translation from Albanian to Serbian. In this regard, the Ombudsperson with the ex officio report⁹⁰ found that non-

90 Ex-officio report no. 227/2019, language inconsistencies in legal acts and their impact on the realization of human rights

identical versions of the provisions in the language were found in a number of legal and by-laws, as well as in the Constitution itself. All these differences include substantive, terminological, grammatical, spelling and typographical errors, which mean a totally or partially inappropriate translation of words from the Albanian language into the Serbian language, the lack of translation of parts of the text, as well as the addition. parts of the text and sentences that do not exist in the original text. In this regard, the Ombudsperson recommended the Assembly of the Republic of Kosovo and the Government of the Republic of Kosovo to approve the Draft Law on Legal Acts and thus provide the legal basis for harmonizing and correcting linguistic or technical errors in legal acts in case of inconsistency.

During this year, the Ombudsperson has cooperated with the Office of the Commissioner for Languages with the aim of better coordination and promotion of language and rights, as well as faster resolution of submitted complaints. This cooperation will continue in the following period.

The state of rights of members of the Roma, Ashkali and Egyptian communities

During the reporting year, the Ombudsman received 22 complaints from the Ashkali community, of which 5 complaints were opened for investigation, 19 complaints from the Roma community, of which 7 complaints were opened for investigation, and 7 complaints from the Egyptian community, of which 3 complaints have been opened for investigation.

The Ombudsperson, on November 10, 2023, published the ex officio Recommendations Report no. 453/2018 regarding the lack of suitable housing conditions for the Roma, Ashkali and Egyptian communities, returned from North Macedonia to Obiliq.⁹¹ The report

was intended to draw the attention of the local and central governments to the need to take action in order to create dignified and suitable living conditions for the returnees in Plemetin village.

The Ombudsperson through this report assessed that the issues related to the returnees in the village of Plemetin have been stratified for years, such as the process and method of return, the concentration of the returnees in a certain space, the lack of property, the fact that the returnees were not residents of this locality before, the reaction and way of accepting the returnees from the host community, the lack of registration in civil status registers, etc. This report, through an analysis of the current situation, the actions of the authorities and the legal analysis, addresses the need for actions by the authorities to change this situation.

Visit of the Ombudsperson in Adem Voca Neighborhood, South Mitrovica

The OIK, on March 30, 2023, held a meeting with citizens from the Roma, Ashkali and Egyptian communities in the city of South Mitrovica, as well as visited several families from these communities, where they became closely acquainted with their challenges and concerns.

The participants from the Roma, Ashkali and Egyptian communities have expressed their concerns regarding the lack of basic living conditions, the severe economic and social situation, the high level of unemployment, claims of discrimination by municipal bodies as well as by other public and private institutions. Among the most disturbing problems that required urgent action by the authorities, both municipal and central, is the large presence of garbage on the streets but also in the basements and entrances of collective housing, which pose a serious risk to residents. According to the residents, the waste collection is not done by the company contracted by the Municipality

91 Institution of the Ombudsperson, Report of the Ombudsperson, Ex-officio case no. 676/2022 – education and opportunities of young people in the labor market, accessible at: <https://oik-rks.org/en/2023/04/07/press-release-the-ombudsperson-published-ex-officio-report-no-6762022-with-regard-to-education-and-opportunities-of-young-people-in-the-labor-market/>

of South Mitrovica, because the residents are unable to pay the bills for economic reasons.⁹²

The Ombudsperson opened a case ex officio and conducted several investigative actions regarding the case in question, including with the waste management company, which then, through the engagement of cleaning teams, cleaned and removed the illegal waste dump in the neighborhood, as well as the removal of waste water in the basements of the apartments.⁹³

The visit of the Ombudsperson to Janjevë

On October 5, 2023, the Ombudsperson visited the village of Janjevë, in the Municipality of Lipjan, in order to talk with the citizens of this village where members of the Croatian, Roma, Ashkali, etc. communities live. During this visit, the Ombudsperson was informed about the situation regarding the water supply and sewerage. Residents express their concern that since 2017, after the construction of the water supply basin, which is located above the local cemetery, water from unknown sources is pouring into the foundations of some residential houses. This water penetrates into the rooms where they live, while the moisture spreads to the walls of the houses, in which there are traces of mold, it wets the electrical installations in the house, which directly endangers their safety, but also affects the health and quality of their lives. Locals suspect that the water flowing into their homes originates from outdated sewers and water pipes.

Old abandoned houses are also a significant problem, some of which have already collapsed, while others are in danger of collapsing, which also poses a risk to neighboring inhabited houses and to the movement of people. The village roads are very neglected and damaged, it is very difficult to access the houses and the movement of vehicles.

According to the claims of the residents, it turns out that the municipal authorities and the Regional Water Company in Pristina have been notified several times for the aforementioned problems.

The Ombudsperson, through a press release, has expressed his concern for the alarming situation in which the residents of Janjeva find themselves, calling on the competent bodies to urgently react in accordance with their powers.⁹⁴

92 Public announcement regarding the visit to South Mitrovica: <https://oik-rks.org/2023/03/30/>

93 Ex-officio case no.325/2023

94 Institution of the Ombudsperson, Media release regarding the visit of the Ombudsperson to Janjevë, October 5, 2023, accessible at: <https://oik-rks.org/2023/10/05/avokati-i-popullit-vizitoi-fshatin-janjeve/>

The background is a solid blue color with several overlapping, semi-transparent shapes in various shades of blue. These shapes create a layered, geometric effect, with some appearing as curved wedges or triangles that overlap each other, giving a sense of depth and movement. The overall composition is clean and modern.

The Rights of Children

The Rights of Children

The rights of children determine that children, in addition to being bearers of rights, are also active participants in the process of realizing these rights. Girls and boys enjoy general rights as adults, as well as specific rights tailored to their special needs as children. Due to the beginning of their lives dependent on adults, it is essential that their rights are respected and realized, allowing the full development of their potential. This process helps to recognize human dignity and is essential for ensuring their well-being.

During 2023, the Ombudsperson received 88 complaints related to children's rights, mainly submitted by parents of children, while 9 cases were investigated ex officio. Regarding the gender of the complainants, 49 complaints were initiated by women and 30 by men. Furthermore, the institutions against which the complaints were received were: 29 against municipalities, 24 against courts mainly for delaying the judicial procedure and request for monitoring of judicial processes, 24 against ministries, including the Centers for Social Work (CWS) regarding the establishment of contact with children, non-payment of allowances for children and maternity, or interruption of social assistance, 2 complaints against the Kosovo Police, 2 against the prosecutor's offices and 10 complaints of other natures.

From this number, 33 complaints were declared inadmissible, because the issues they dealt with were outside the jurisdiction of

the Ombudsperson, there were no violations of human rights, or the complainants had the opportunity to use them or were in the use of legal remedies. From the complaints received by citizens, 55 complaints have been opened for investigation and are elaborated in more detail throughout the report. During this year, OIK has addressed 98 recommendations to relevant public authorities and has sent 20 reminder letters to these authorities regarding non-response and non-implementation of recommendations.

Complaints submitted by individuals	79
Cases open for investigation according to complaints submitted by individuals	46
Unaccepted complaints	33
Cases open for ex officio investigation	9
In total	88

The right of children to education

From the complaints received in 2023, issues related to: violence at school⁹⁵, attendance at school⁹⁶, transfer from school to another school⁹⁷, access and admission to school⁹⁸, diploma verification⁹⁹, evaluation of hate speech in textbooks were addressed¹⁰⁰, the provision of transport to school¹⁰¹, the impact of the weight of bags on primary school children¹⁰², discrimination against children with disabilities¹⁰³, discrimination against Egyptian, Roma and Ashkali students¹⁰⁴ and the lack of transport and personal assistants for children with disabilities¹⁰⁵.

In August, the OIK began official investigations regarding the weight of bags for students in grades 1-5, highlighting the health problems that book overload can cause as well as the

95 Case 363/2023, 421/2023 and 445/2023
 96 Case 292/2023 and 626/2023
 97 Case 542/2023
 98 Case 24/2023 and 419/2023
 99 Case 434/2023
 100 Ex Officio Case 636/2023
 101 Case 142/2023 and 564/2023
 102 Ex Officio Case 479/2023
 103 Case 359/2023 and 607/2023
 104 Case 637/2023
 105 Case 565/2023, 666/2023, 676/2023, 69/2023

importance of functionalizing book lockers in schools.¹⁰⁶ Also, in December, following the complaint of the technical working group for the protection from discrimination of the Roma, Egyptian and Ashkali communities, the OIK started investigations related to the discrimination of Ashkali, Roma and Egyptian students by the municipality of Fushë Kosova due to the interruption of alternative education¹⁰⁷.

Regarding children's right to education, OIK has published two reports with recommendations¹⁰⁸: Report of the Ombudsperson, Ex-Officio no. 147/2021, hate speech in elementary school textbooks in Kosovo¹⁰⁹ and the Report of the Ombudsperson, Ex-officio case no. 676/2022 – education and opportunities of young people in the labor market. In the first report, the OIK researched and analyzed hate speech in primary education and lower secondary education textbooks in the Republic of Kosovo. Consequently, the Ombudsperson has recommended the drafting of a guide for the prevention and elimination of hate speech in school textbooks, the complete analysis of texts for the inclusion of diverse groups, the organization of trainings for authors and teachers, the inclusion of teaching units on hate speech, and the replacement of hate speech texts with more appropriate texts

in the Albanian Language book 6¹¹⁰. While in the second report, the OIK assessed the level of harmonization of the education of young people in Kosovo's higher and professional education institutions with the conditions of the labor market, in order to implement the constitutional and legal provisions for respecting the rights of children in education.¹¹¹ The report brings a series of recommendations to MESTI, including concrete measures to ensure the matching of school profiles with the demands of the labor market, revision of the funding formula for vocational schools, training for teachers, and information campaigns for parents and students¹¹².

The rights of children in court proceedings

During this year, the OIK has received 13 complaints against the courts, which were mainly related to the trust of custody of children and the determination of alimony¹¹³, (non)payment of alimony¹¹⁴, acceleration of the procedure¹¹⁵, the work of the judge¹¹⁶, non-(realization) of contact with children¹¹⁷, the procrastination of court proceedings¹¹⁸. Also, at the request of the parties, the OIK has monitored court hearings related to children's trust and alimony¹¹⁹, the right to a fair and impartial trial¹²⁰, as well as in cases of domestic violence¹²¹. Regarding the cases in

106 Ex Officio Case 479/2023

107 Case 637/2023

108 For a more detailed overview of these reports, see the section on the Right to Education.

109 Ombudsperson Institution, Report of the Ombudsperson, Ex-Officio no. 147/2021, hate speech in elementary school textbooks in Kosovo, accessible at: <https://oik-rks.org/en/2023/08/11/ombudspersons-ex-officio-report-no-1472021-hate-speech-in-primary-education-school-textbooks-in-kosovo/>

110 There, pg. 19-20

111 Institution of the Ombudsperson, Report of the Ombudsperson, Ex-officio case no. 676/2022 – education and opportunities of young people in the labor market, accessible at: <https://oik-rks.org/en/2023/04/07/press-release-the-ombudsperson-published-ex-officio-report-no-6762022-with-regard-to-education-and-opportunities-of-young-people-in-the-labor-market/>

112 Ibid, p. 20-22

113 Case 129/2023 and 394/2023

114 Case 265/2023

115 Case 66/2023

116 Case 122/2023

117 Case 522/2023, 597/2023 and 458/2023

118 Case 460/2023 and 626/2023

119 Case 394/2023 and 468/2023

120 Case 179/2023

121 Case 625/2023

question, the OIK has written to the relevant courts to be informed about the actions taken in respect of the right to a fair and impartial trial as well as the right to legal remedies.

Violence and the state of security in schools

Violence continues to remain present in children's lives, as confirmed continuously during discussions with students from different schools. Regarding this phenomenon, the Ombudsperson has conducted investigations for 3 cases, of which 1 case was initiated according to complaints and 2 according to official duty. The cases had to do with the non-handling of a case of physical bullying of a student by the school directorate¹²², suspicion of violence in the shelter¹²³ and sexual assault in the school by the teacher¹²⁴. In June, the Ombudsperson started the investigations according to the official duty regarding the assertions of the portal "Insajderi", in the article entitled: *"The Prosecutor's Office is preparing the request for detention against the teacher from Deçan"*. In this letter, the Basic Prosecutor's Office of Peja announces that a request will be made for the appointment of a detention measure for the teacher from Deçan who is suspected of sexually assaulting a primary school student. After the investigations, it was estimated that the measures defined by law were taken, the suspect was placed in custody and the DKA Disciplinary Commission made a decision to terminate the employment relationship according to the findings of the Inspectorate of Education in Peja.

In 2022, the Ombudsperson started ex-officio investigations based on the article on the "Telegrafi" portal, with the title: *"The case of rape of an 11-year-old girl in*

Pristina, the Prosecutor's Office says that the same was reported in June of this year as disappeared", where the actions taken by the state institutions were investigated by the OIK if they fulfilled the positive obligations of the state for the protection of children from sexual violence and trafficking. After the investigations, the Ombudsperson has published the Report with recommendations Ex-officio no. 468/2022, where it states that in this particular case there was a violation of the basic rights and freedoms of children, namely a violation of the state's positive obligations for the protection of children from ill-treatment and inhuman treatment, according to article 3 - Prohibition of torture, of the European Convention on Human Rights, articles 19 and 34 of the KDF, article 56 of the Istanbul Convention and articles 5, 11.2, 15 (1.2) and 24 of the LMF, since the Prosecutor's Office, the PSC, the Police and the Victims' Defender were aware of the danger to the child and had failed to take all reasonable measures to protect him.¹²⁵.

Referring to the CRC, the Istanbul Convention and the available statistics, the Ombudsperson has examined the gender dimension of violence, where sexual violence and human trafficking are presented as forms of gender-based violence and therefore present a greater risk for girls and women. Furthermore, the state's obligations for the protection of children are seen as twofold, since we are talking about a group vulnerable to violence, that is, the girl child. Moreover, prioritizing the viewpoint and consent of the child and parents over the Police report for the high risk level, as a reason for the release of the child from the Shelter, was a wrong assessment and had serious consequences for the child, contributing directly to her revictimization. Taking into account the institutional responsibilities in the protection

122 Case 445/2023

123 Case 422/2023

124 Case 421/2023

125 Ombudsperson Institution, Report of the Ombudsperson, Ex-officio no. 468/2022 the positive obligations of the state for the protection of the child from violence, accessible in: <https://oik-rks.org/en/2023/04/03/press-release-the-ombudsperson-published-ex-officio-report-no-4682022-with-regard-to-states-positive-obligations-to-protect-the-child-from-violence/>

of children from violence and trafficking, their experiences and professional qualifications in this field, the situation on the ground, classified by the police as dangerous (the police as a specialized body in the field of security), the age of child and his vulnerable position as a victim of gender-based violence, the Ombudsperson considers that the institutions involved bear a higher burden of responsibility and should have been able to better perceive and anticipate the risk, which threatened the child, rather than the child's parents, who were considered secular in the field of law and public safety. Also, the Ombudsperson has concluded that the authorities have not acted in the best interest of the child, which obliges for increased care to the child's history, given the special situations of abuse as well as the possible risk that similar situations happen in the future. Among other things, a violation of the principle of taking actions as soon as possible, as required by Article 5 of the LPC and according to Instruction No. 02/2021, was found, which prevented the taking of actions as soon as possible in the protection of children from violence and the investigation of criminal offences. The Ombudsperson drew attention to the fact that proper legal protection was not provided for the child, according to the JJC and LPC, because the child was treated as a minor and she was not read her rights according to the law¹²⁶.

Consequently, Ombudsperson has recommended to the Prosecution Council of Kosovo some important measures to improve the handling of cases in which children are victims or witnesses. Key recommendations include ensuring accountability for responsible officials in cases where they fail to meet legal obligations. Also, the need for mandatory training of officials who deal with cases of child victims/witnesses and

the content of cases of sexual violence in an effective and urgent manner, taking into account the best interest of the child, is emphasized. The Ombudsperson has recommended measures for the Kosovo Police, the Ministry of Internal Affairs, the Ministry of Finance, Labor and Transfers, the Kosovo Agency for Forensics, the Institute of Forensic Medicine and the Municipality of Pristina. These include the need for professional training, the supervision of the implementation of the law on residence and place of residence, the establishment of child protection houses, the definition of detailed procedures and deadlines for expertise, as well as the increase of the capacities of local bodies to care for child victims of violence.¹²⁷.

Children with disabilities

Children with disabilities still experience serious difficulties and face obstacles to the full enjoyment of the rights defined by law. Girls and boys with disabilities constitute one of the most vulnerable groups of children, being that they are more sensitive to social exclusion, discrimination, lack of information and financial resources, transportation and physical access to educational and healthcare facilities. As it was also emphasized in the ex-officio Report no. 331/2022 regarding the alignment of the provisions of the general pre-university education system with the rights of children in education, the participation of children with limited abilities in the education system is low. This is the result of the level of social awareness towards persons with disabilities and the limited capacity of the system to provide educational and rehabilitation services for them¹²⁸. Furthermore, the lack of a comprehensive system for data collection and cross-sectoral approach for children with limited abilities in the education sector

¹²⁶ Ibid, p. 25-26.

¹²⁷ Ibid, p. 27-29.

¹²⁸ Institution of the Ombudsperson, ex-officio report no. 331/2022 regarding the alignment of the provisions of the general pre-university education system with the rights of children in education, pp. 20-29, accessible at: <https://oik-rks.org/en/2022/11/10/report-of-the-ombudsperson-ex-officio-no-3312022-with-regard-to-harmonization-of-the-provisions-of-general-pre-university-education-system-of-kosovo-with-the-rights-of-children-in-education/>

continues to be a challenge, making it difficult to plan services from the municipal directorates and from the schools themselves. On the other hand, schools also have very limited capacities to promote inclusiveness, as teachers in regular schools do not have adequate training to work with children with disabilities¹²⁹. Similar to previous years, the problems that make it difficult for children with limited abilities to access education continue to be chain problems that include four key areas: the lack of early assessment of disabilities, discrimination in access to preschool institutions, lack of transportation and personal assistants as well as individual learning plans.

During this reporting period, regarding the rights of children with limited abilities, the Ombudsperson has conducted investigations for 7 cases, where 6 were initiated after the parents' complaints and 1 according to the official duty. These complaints had to do with the realization of the right to education, more specifically with the lack of school-home transportation¹³⁰, not engaging the personal assistant¹³¹, discrimination regarding access to education¹³² and abuse¹³³. In February, the Ombudsperson started the investigations according to the official duty against the municipality of Gjilan regarding the lack of transport to the school for children with limited abilities. These investigations began based on the information received from the Municipal Directorate of Education (MDE) in Gjilan that 147 students with limited abilities are studying in pre-university institutions and that only five students are transported from this municipality¹³⁴. This is in contradiction with articles 13, 15 and 40 (4) of the Law on Pre-University Education (LAP), which

oblige municipalities to organize free, safe and efficient transportation of children with limited abilities for access to primary, secondary education.

While in another case, the child with autism was excluded from school because the directorate requested that he continue the lesson with a personal assistant. Parents have complained that they do not have the financial conditions to cover the cost of hiring an assistant, nor to accompany the child during lessons¹³⁵. On the other hand, creating the conditions for learning for all children, including children with limited abilities, is an obligation of the municipality. According to Article 40 of the LAP, educational and training institutions must accommodate all children, without distinction, and must promote integration and contact between children as well as provide appropriate support based on the intellectual needs of students. Moreover, the provision of education for children with special needs means the provision of education that is in addition to or different from the education that is generally given to children of his/her age¹³⁶. Also, the LPC obliges all responsible authorities to eliminate all infrastructural, social, environmental, institutional and legal barriers in the field of education, so that children with disabilities can exercise the rights provided for in this law¹³⁷. After investigating the case, it turned out that the school had accepted the child back into the classroom under the supervision of the mother, but the personal assistant has not yet been assigned to him in accordance with the law in force. Also, in two similar cases, one child with autism was continuously refused registration and stay in preschool institutions due to limited

129 Ibid.

130 Case 69/2023.

131 Case 565/2023.

132 Case 607/2023 and 359/2023.

133 Case 363/2023.

134 Case 69/2023.

135 Case 565/2023.

136 Assembly of the Republic of Kosovo, Law no. 04/I-032 on Pre-University Education in the Republic of Kosovo, Article 39 (3).

137 Assembly of the Republic of Kosovo, Law No. 06/L-084 on Child Protection, Article 46 (7).

ability, while the other was denied access to preschool institution¹³⁸. Administrative instruction no. 19/2016 for the inclusion of children in preschool institutions in Kosovo in force at the time of the reporting of the cases provides that the municipality is obliged to provide children with special needs and those who come from marginalized groups with a place in preschool institutions. Every child with special educational needs has the right to be included in one of the educational groups in a preschool institution. Children with serious injuries can be included if the institution has provided the adequate professional framework and other necessary conditions depending on the type of injury¹³⁹. Moreover, in August, the new Law on Early Childhood Education (LECE) was approved, which is guided by the principles of the best interest of the child, equality and non-discrimination, as well as the principle of inclusiveness¹⁴⁰. Meanwhile, the last case has to do with the exercise of psychological violence and abuse against the child with limited abilities in the educational institution by the educator¹⁴¹. The case was reported by the parent to the police, in which case the actions foreseen in accordance with the law were taken.

According to Article 41 of the LAP, municipalities are obliged to establish professional assessment and support teams for the special educational needs of children with disabilities. The LAP obliges institutions involved in the provision of pre-university education to plan and provide efficient, effective, flexible, comprehensive and professional services, designed to provide

all children with equal rights to education, in accordance with abilities and their specific needs, as well as to advance their educational and social development¹⁴². In 2022, the Ombudsperson found that 17 municipalities had failed to fulfill the constitutional and legal obligations for the establishment of these evaluation teams¹⁴³. Furthermore, Administrative Instruction no. 18/2013 on the use of the individual education plan foresees the creation and implementation of individual education plans at all levels of pre-university education with the aim of optimal inclusion and ensuring full access of children with special educational needs in the education system. The Ombudsperson has noted that the lack of individual development plans for children with special needs aged 3-5 is closely related to the lack of early assessment. Consequently, it was recommended to the municipalities and schools to undertake all the necessary measures for the drafting of individual education plans in accordance with Administrative Instruction no. 18/2013¹⁴⁴. Moreover, the obligation regarding the individual plan and the professional assessment teams is also included in the LECE.

Social and health protection of children

Based on the recommendations of the Ministry of Internal Affairs and non-governmental organizations in the last four years, the Law on Social and Family Services was finally approved, which is very important for the well-being of children, as it is expected to offer better quality family and social services. and stable. Among other

138 Case 607/2023 and 359/2023.

139 Republic of Kosovo, Ministry of Education, Science and Technology, Administrative Instruction no. 19/2016 for the inclusion of children in preschool institutions in Kosovo, articles 5 and 6.

140 Assembly of the Republic of Kosovo, Law No. 08/L-153 for Early Childhood Education, Article 3.

141 Case 363/2023.

142 LAP, article 3(3).

143 Report of the Ombudsperson Ex-officio no. 411/2021, regarding the establishment of the professional assessment and support team for special educational needs for children with disabilities, accessible at: <https://oik-rks.org/en/2022/04/27/the-report-of-the-ombudsperson-ex-officio-no-4112021-with-regard-to-establishment-of-a-professional-assessment-and-support-team-for-special-educational-needs-for-children-with-disabilities/>

144 Ex-officio report no. 331/2022 regarding the alignment of the provisions of the general pre-university education system with the rights of children in education, p. 15.

things, the law is expected to increase the range of services, establish new services by defining prevention, protection, rehabilitation and reintegration services¹⁴⁵. In terms of social and health protection, 9 complaints were submitted this year, mainly due to the non-payment of maternity allowance¹⁴⁶, the withdrawal of social assistance funds and the work of the PSC¹⁴⁷ related to the custody of minor children, the establishment of contacts with children and financial and social support¹⁴⁸.

In this field, OIK has published ex-officio Report no. 37/2023 regarding the establishment of guardianship bodies, recommending to the municipalities the undertaking of the necessary measures for the formation and functioning of the guardianship body according to the relevant legislation in the Republic of Kosovo¹⁴⁹. During the analysis, the Ombudsperson observed that only five municipalities have established the guardianship body. Meanwhile, 29 municipalities: Prishtina, Podujevë, Fushë Kosovë, South Mitrovica, Mamushë, Lipjan, Klinë, Istog, Glogoc, Gjakovë, Junik, Dragash, Deçan, Ferizaj, Skenderaj, Kamenica, Kaçanik, Hani i Elezit, Gjilan, Vushtrri, Viti, Prizren, Obiliq, Shtërpçë, Novobërdë, Ranillug, Partesh, Klllokot and Graçanicë have not established the guardianship body as required by Article 7 of Law No. 02/L-17 for Social and Family Services violating the rights of children. Consequently, the non-establishment of this body makes it impossible to implement the provisions of the Law on Child Protection, the Juvenile Justice Code, the Administrative Instruction for the Implementation of Child-Friendly Justice in Criminal, Civil and Administrative Procedures and the

Administrative Instruction for the Protection and Treatment of Children perpetrators of criminal offenses under the age of criminal responsibility¹⁵⁰. After the publication of this report, four municipalities: Gjakovë, Lipjan, South Mitrovica and Prizren have implemented the recommendation of the OIK.

The OIK has also sent a Letter of Recommendation to the University Hospital and Clinic Service of Kosovo (UHCSK) regarding the issue of paying for parking in the spaces of the Pediatric Clinic of the UHCSK based on a parent's complaint¹⁵¹. After the analysis of the case, it was observed that the current regulation of the parking lot in the spaces of UHCSK does not include exemption from payment for parents who receive health services for their children, regardless of medical diagnoses. This violation contradicts Article 50 of the Constitution of Kosovo, Articles 3 and 42 of the CRC and Articles 1, 5 and 42 of the LPC. Therefore, the Ombudsperson has recommended that Article 7 of Regulation No. 116 on the use of the parking lot should be changed to include the category of children who are exempted from the payment of the parking lot in the spaces of UHCSK. It is also required to publish the regulation on the official website of UHCSK for transparency and public access.

145 Assembly of the Republic of Kosovo, Law No. 08/L-255 for Social and Family Services, January 2024

146 Case 372/2023

147 Case 257/2023, 136/2023, 458/2023 and 583/2023

148 Case 545/2023

149 Ombudsperson Institution, Report of the Ombudsperson, Ex-officio no. 37/2023 regarding the establishment of guardianship bodies, accessible at: <https://oik-rks.org/en/2023/10/18/ombudspersons-ex-officio-report-no-372023-with-regard-to-establishment-of-custodian-bodies/>

150 Ibid, p.10-11

151 Ombudsperson Institution, Letter of Recommendation Complaint no. 671/2022

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The Right to Education

The Right to Education

The Constitution of the Republic of Kosovo guarantees and regulates the right to education in Article 47, as a right that includes three main obligations (i) the provision of compulsory and free basic education, (ii) the creation of a comprehensive education system that provides opportunities equal and (iii) the creation of an educational system which fulfills the basic and specific needs and abilities of every child¹⁵². This right is also defined by the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols (ECPHR) and the Convention for the Protection of Children (CRC)¹⁵³.

During 2023, the legal framework in the field of education was completed with the approval of Law No. 08/L-053 on Early Childhood Education (LECE)¹⁵⁴, as well as Law No. 08/L-110 on the Kosovo Accreditation Agency (LKAA)¹⁵⁵, both of these laws will be a good basis for raising the quality of education, according to the transitional provisions of LECE, it is foreseen that pre-primary education will become

mandatory from the school year 2024-2025, and that the mandatory inclusion of children in early primary education, it will influence the preparation of children for the continuation of education and training, it will create a comprehensive system which should provide equal opportunities for all, and fulfill the basic and specific needs and abilities of each child, this will positively affect in realizing the right to education which is guaranteed by the Constitution and international instruments.

Also, considering that the Kosovo Agency for Accreditation is a regulatory agency in the processes and responsibilities of accreditation, reaccreditation, validation, monitoring with the aim of ensuring quality in higher education in the Republic of Kosovo, this law will affect the improvement of quality in higher education¹⁵⁶.

In the direction of the protection of these rights, within the framework of promotional activities and the protection of human rights, the Institution of the Ombudsperson (OIK) also during the year 2023, developed visits, information campaigns for students and teachers of primary and lower secondary schools, for this purpose, pre-university educational institutions,¹⁵⁷ university institutions¹⁵⁸ and participation in tables¹⁵⁹.

152 Constitution of the Republic of Kosovo, Article 47

153 Protocol no. 1 of the ECHR, Article 2 and the Convention for the Protection of Children, Article 28

154 Official Gazette of the Republic of Kosovo / no. August 17 / 3, 2023, Prishtina, Law no. 08/L-153 on Early Childhood Education

155 Official Gazette of the Republic of Kosovo / no. June 13 / 29, 2023, Prishtina, Law no. 08/L-110 for the Kosovo Agency for Accreditation

156 According to Article 2 of the Law on Higher Education, higher education is based on the principle of the quality of study programs always supporting learning, also according to Article 7, the KAA ensures that the standards and quality of higher education meet the requirements and expectations of the European Network of the Association for Quality Assurance in Higher Education (QAHE).

157 Until June 1, 2023, representatives of the OI visited 32 schools, met with students and teachers who were informed about the role of the OIK in the protection and promotion of human rights, the focus of the campaign this year was on children with special educational needs and children of Roma, Ashkali and Egyptian communities.

158 Regarding the identification and addressing of some problems encountered by students who were part of the project "Promoting the engagement of young people in accountability" led by the non-governmental Organization for the Improvement of Quality in Education (ORCA), the representatives of the OIK, visited the public universities, met with the managers of the universities, also, on December 7, 2023, the Ombudsman, after the meeting with the rector of the "Fehmi Agani" University in Gjakovë, held a lecture with the students, academic and administrative staff of this university.

159 Prishtina, February 8, 2023 - Ombudsperson, Mr. Naim Qelaj participated in a round table discussion on

On June 1, 2023, the Ombudsperson drew the attention of the authorities to the constitutional and legal responsibilities and obligations to take all the necessary measures to ensure the full respect of children's rights, on this special day for children, among others, it is important that all authorities reflect on the importance of inclusiveness in education and increasing the quality of education¹⁶⁰.

In 2023, the Ombudsman received complaints related to the right to education, while 5 cases were initiated ex officio. The cases, including those initiated according to official duties, have dealt with: school violence¹⁶¹, school attendance¹⁶², access and admission to school, including transfer¹⁶³, diploma verification¹⁶⁴, assessment of hate speech in higher secondary education textbooks¹⁶⁵, provision of transport to school¹⁶⁶, the impact of the weight of bags on primary school children¹⁶⁷, the lack of transport and personal assistants for children with disabilities¹⁶⁸ and discrimination against children with disabilities¹⁶⁹ as well as discrimination against Egyptian, Roma and Ashkali students¹⁷⁰.

Regarding the right to education, OIK has published two reports with recommendations: Report of the Ombudsman, Ex-Officio no. 147/2021, hate speech in elementary school textbooks in Kosovo¹⁷¹ and the Report of the Ombudsperson, Ex-officio case no. 676/2022

– education and opportunities of young people in the labor market. In the first report, OIK has researched and analyzed whether the textbooks of primary education and lower secondary education in the Republic of Kosovo meet international and European standards for addressing hate speech. This research examined 47 textbooks from grades one through nine. The report's findings show that, in general, textbooks adhere to language standards, but there are two notable instances of hate speech. In order to improve this situation, the Ombudsperson has recommended the drafting of a guide for the prevention and elimination of hate speech in school textbooks, the complete analysis of the texts for the inclusion of diverse groups, the organization of trainings for authors and teachers, the inclusion of teaching units about hate speech, and replacing hate speech texts with more appropriate texts in the Albanian language book 6. These recommendations aim to improve the quality and integration of freedoms and society's values in school textbooks in the Republic of Kosovo¹⁷². Similarly, in December, the OIK has decided to initiate a case ex officio for the evaluation of the language in the textbooks of higher secondary education, i.e. for grades 10-12¹⁷³.

While in the second report, the OIK has assessed the level of harmonization of the

the topic of "Child Protection Law - progress in its implementation", organized by the coalition of NGOs for the protection of children in Kosovo, KOMF.

160 Statement of the Ombudsman on the occasion of International Children's Day - Inclusion of every child, June 1, 2023, in: <https://oik-rks.org/2023/06/01/>

161 Case 363/2023, 421/2023 and 445/2023.

162 Case 292/2023 and 626/2023.

163 Case 24/2023, 419/2023 and 542/2023.

164 Case 434/2023.

165 Ex-Officio Case 636/2023.

166 Case 142/2023 and 564/2023.

167 Ex-Officio Case 479/2023.

168 Case 565/2023, 666/2023, 676/2023, 69/2023.

169 Case 359/2023 and 607/2023.

170 Case 637/2023.

171 Ombudsperson Institution, Report of the Ombudsperson, Ex-Officio no. 147/2021, hate speech in elementary school textbooks in Kosovo, accessible at: <https://oik-rks.org/en/2023/08/11/ombudspersons-ex-officio-report-no-1472021-hate-speech-in-primary-education-school-textbooks-in-kosovo/>

172 Ibid, p. 19-20

173 Ex-officio Case 636/2023

education of young people in Kosovo's higher and professional education institutions with the conditions of the labor market, in order to implement the constitutional and legal provisions for respecting the rights of children in education¹⁷⁴. Education is essential for employment where vocational training and higher education institutions are expected to prepare graduates for employment. After a careful analysis, one of the main findings is that education and vocational training are not in line with the demands of the labor market. This is evident through the lack of accreditation for most vocational programs, while vocational schools face funding and infrastructure challenges. Also, another finding is the lack of adaptability of the study program to the demands of the labor market, as well as the lack of opportunities for students to develop knowledge and practical skills that are required in the labor market. In a broader context, the report shows that access to education and professional training in Kosovo is not considered an attractive choice for students, being considered as a second option compared to other studies.

The report brings a series of recommendations to MESTI, including concrete measures to ensure the matching of school profiles with the demands of the labor market, revision of the funding formula for vocational schools, training for teachers, and information campaigns for parents and students¹⁷⁵. At the same time, a more careful approach is recommended in monitoring the quality of higher education institutions and ensuring a strong connection between study programs and labor market requirements.

For the Kosovo Accreditation Agency, it is recommended to keep statistics on study programs that do not meet labor market standards and to encourage the cooperation of vocational schools with businesses.

Education of children with special educational needs

Regarding the education of children with special educational abilities, the Ombudsperson expresses his concern regarding the lack of assistants for these children, the fact that transportation is provided only for some children is also worrying¹⁷⁶, therefore, the Ombudsperson recommends that in order to ensure the equal access of persons with disabilities as well as the inclusiveness of children in education, to create the conditions for the further engagement of assistants for children with special educational needs and to provide transportation for these children.

Early childhood education

Despite the commitment of MESTI for the construction of new nurseries, Kosovo still continues to have little involvement of children in early childhood education, therefore, considering that preschool education is the first link of the education system and is carried out in institutions preschool, it is necessary to ensure comprehensive and equal access for all children through the increase of physical infrastructure capacities¹⁷⁷.

174 Ombudsperson Institution, Report of the Ombudsperson, Ex-officio case no. 676/2022 – education and opportunities of young people in the labor market, accessible at: <https://oik-rks.org/en/2023/04/07/press-release-the-ombudsperson-published-ex-officio-report-no-6762022-with-regard-to-education-and-opportunities-of-young-people-in-the-labor-market/>

175 Ibid, p. 20-22.

176 Information received by MDE in Gjilan during the investigation of cases 650/2022, 651/2022, 652/2022 and 640/2022, according to which we were informed that 23 children with special educational needs attend preschool institutions and none of them are transported from the municipality, while 147 students attend pre-university education, of which only 5 students are provided transportation from the municipality.

177 <https://masht.rks-gov.net/ministrja-nagavci-prezantoi-punen-e-deritanishme-sa-i-perket-cerdheve-ten-dertuara/>

The educational system for communities

Teaching in the Republic of Kosovo takes place in the Albanian, Serbian, Turkish and Bosnian languages. Regarding the right to education of the Serbian community, the schools that teach in the Serbian language still continue to work with the curricula of the Republic of Serbia, without being approved by MESTI, while regarding the inclusiveness of other communities, the Ombudsperson appreciates as positive the financial support offered to Roma, Ashkali and Egyptian students as well as the support for girl/women students in the fields of science, technology, engineering and mathematics, where students from non-majority communities, those with disabilities are especially encouraged to apply as well as from rural areas¹⁷⁸.

Pre-University Education

The Ombudsperson, through report no. 331/2022, had recommended MESTI to draft and implement policies to improve the quality of education, especially in the field of mathematics, science, and reading, despite this, even this year the results in the PISA test (Program for the international evaluation of students) have shown that the quality of education is not at the right level to prepare students for life, based on these results, Kosovo ranks 76th in Kosovo with 342 points, in science 77th with 357 points and 74th in mathematics with 355 points¹⁷⁹.

In order to improve the quality of education, the Ombudsperson supports the signing of the Agreement between MESTI and the Faculty of Education, in the framework of

which it is foreseen to analyze the results of the PISA Test so that the decisions and policies that are undertaken are based on the most accurate analysis¹⁸⁰.

An obstacle to the exercise of the right to education during this year was the distribution of textbooks, since MESTI changed the method of distributing textbooks, for the supply of textbooks, it was requested that parents apply through the E-Kosova platform and then receive financial means for the purchase of textbooks, this has been accompanied by numerous problems and unnecessary delays, many parents had problems with the application and there were delays in supplying students with textbooks.

University Education

Despite the report published by the Ombudsperson regarding the non-exercise of effective supervision by MESTI over the operation of Public Higher Education Providers¹⁸¹, the Ombudsperson still continues to accept complaints regarding the non-verification of university degrees¹⁸².

Despite the fact that in 2022¹⁸³, the competition for the engagement of 20 inspectors has been announced, the recruitment procedure for the engagement of education inspectors has not yet been completed, considering that the Education Inspectorate is the central executive body for supervising the implementation of the applicable legislation of all Higher Education Providers, the small number of education inspectors, however, negatively affects the supervision of educational institutions.

178 For more see in: [https://masht.rks-gov.net/thirrje-per-mbeshtetje-financiare-te-studenteve-ne-fushat-e-shkences-teknologjise-inxhinierise-dhe-matematikes-apo-stem-te-arsimit-te-larte-ne-kosove/\[e qasur së fundmi me datën 25.01.2023\]](https://masht.rks-gov.net/thirrje-per-mbeshtetje-financiare-te-studenteve-ne-fushat-e-shkences-teknologjise-inxhinierise-dhe-matematikes-apo-stem-te-arsimit-te-larte-ne-kosove/[e qasur së fundmi me datën 25.01.2023]).

179 <https://masht.rks-gov.net/publikohen-rezultatet-e-testit-pisa-2022/>

180 <https://masht.rks-gov.net/publikohen-rezultatet-e-testit-pisa-2022/>

181 Published on 26 November 2021, in: <https://oik-rks.org/2021/12/23/raport-me-rekomandime-a-nr-242018-k-dhe-te-tjeret-kunder-ministrise-se-arsimit-shkences-teknologjise-dhe-inovacionit/>

182 Case no. 434/2023.

183 Competition for Social Sciences Specialist with No. of Reference RN00010341, announced on November 2, 2022, as well as the competition announced for Education Specialist with No. of Reference RN00011548, announced on April 27, 2023

The Ombudsperson, in order to create the best conditions for the supervision of the implementation of the law in all educational institutions, recommends that this procedure be completed as soon as possible and that the education inspectors be engaged.

Also, the procrastination of the approval of the Law on Higher Education remains a challenge, therefore, in order to strengthen the autonomy and academic integrity of higher education institutions and improve quality, the Ombudsperson recommends that it be approved by the assembly as soon as possible Law on Higher Education.

The right to work and practice the profession

The right to work and exercise the profession is guaranteed by the Constitution of the Republic of Kosovo¹⁸⁴ as well as by international human rights instruments directly applicable in the Republic of Kosovo.¹⁸⁵ Also, this right is regulated and protected by basic laws, which define the rights and obligations arising from the employment relationship.¹⁸⁶

The Ombudsperson notes that the realization of the rights of citizens from the field of labor relations has a special importance for the status of every citizen and at the same time it is an indicator of how the state fulfills its obligations to citizens. The constitutional guarantees for the right to work and the right to freely choose a profession create an obligation for institutions to protect these rights equally to everyone and ensure full respect and implementation of the relevant legislation.

During the year 2023, the Ombudsperson received 226 complaints regarding the right to work and exercise the profession, the largest number of complaints are against Law no. 08/L-196 on Wages in the Public Sector, a total of 104 complaints were received . The complaints received were mainly due to the reduction of salaries, removal of allowances or inadequate and unequal treatment between the positions defined by law. Complaints received were submitted by public sector entities, as group complaints, individually as well as through trade unions¹⁸⁷.

While other complaints which have been investigated by the Ombudsperson, have dealt with: termination of the employment relationship, non-realization of the right to salary, unfair systematization in the workplace, suspension from work due to the organization of strikes¹⁸⁸ and so on.

The year 2023 has been characterized by strikes in several sectors to meet working conditions, such as health workers, teachers, policemen, journalists, KEK employees, the private sector, the category of veterans, miners of the Trepça Combine, etc., all these sectors demanded improvement of working conditions and increase of salaries.

The Ombudsperson points out that collective labor agreements are an instrument for the regulation of working and employment conditions as well as the realization of labor rights. The provisions of the collective agreement have a general legal effect and they supplement or replace the legal norms. The fact that even during 2023, the will of the Government to reach the general collective agreement (which had expired in 2018) was missing, this has influenced the deterioration of the realization of rights from the labor relationship in the public and private sectors.

184 Constitution of the Republic of Kosovo, Article 49

185 Ibid, Article 22.

186 Law no. 03/L-212 of Labor; Law no. 03/L-145 on Civil Service; Law no. 03/L-147 on Salaries of Civil Servants; Law no. 04/L-008 on the Economic and Social Council.

187 Case: Ex-officio 76/2023, addressed to the Constitutional Court on April 7, 2023, "Request for the assessment of compatibility with the Constitution of Law no. 08/L-196 on salaries in the Public Sector"

188 Case A.no. 616/2023

The Ombudsperson draws attention to the importance of the adoption of the collective labor contract as an important instrument that guarantees the realization of legal rights, the improvement of working conditions and the realization of other rights from the labor relationship.

Protection and safety at work

Law no. 03/L-212 of Labor, in article 42, paragraph 1, has determined that *"The employee has the right to safety at work, health protection and a suitable work environment, in accordance with this law and the Law on safety in work, protection of employees' health and protection of the working environment"*. A safe and healthy working environment is a prerequisite for the prevention of risks in the work process, in order to preserve the life, health and dignity of employees.

Even during the year 2023, the Ombudsperson followed with concern the reported cases of accidents at work and the cases where workers lost their lives. This is reflected in the data provided by the Labor Inspectorate, for accidents at workplaces with injuries and fatalities for the period 2004 - 2023.

The Ombudsperson notes inconsistencies in the statistical data, which is a concern because there is no integrated data collection system for the cases reported by the relevant authorities. This is understood from the data published by the Union of Private Sector Workers in Kosovo, which according to them, during the year 2023, 23 people lost their lives in the workplace, emphasizing that most of the fatal cases occurred in the construction sector, where more deaths are recorded in the workplace.

Safety and health at work from a gender perspective

The gender perspective in relation to occupational safety and health serves to highlight issues of gender integration in relation to occupational safety and health in general. A gender-sensitive approach takes into account the different work situations of women and men¹⁸⁹, which in terms of the importance of gender mainstreaming in the world of work is recognized by the International Labor Organization (ILO) to identify where considering gender differences in the development of labor sector policies and preventive strategies.

The number of accidents resulting in injuries and deaths at the country level 2004-2023:

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Injuries	54	15	15	47	21	29	21	31	45	37	59	47	62	50	125	133	160	179	394	256
Deaths	17	7	7	4	11	9	10	10	17	17	9	9	9	19	22	12	16	9	15	8

These figures remain even more challenging in the Republic of Kosovo, when we take into account the general socio-economic and cultural development as well as the level of applicability of labor relations legislation as well as safety and health at work.

Factors that affect working conditions can have different effects on women and men, therefore the actions that must be taken to prevent them can be different as needed, in order to adapt to gender needs for achieving the effect of equal treatment.

¹⁸⁹ European Agency for Safety and Health at Work; Mainstreaming gender in occupational safety and health practice, 2014; linku <https://osha.europa.eu/en/publications/reports/mainstreaming-gender-into-occupational-safety-and-health-practice>

In the system of responsible institutional mechanisms of the country, the possibility to identify and correctly define the aspect of safety and health at work towards vulnerable gender situations has not yet been operationalized. The Ombudsperson, during the years 2021 and 2022, as part of the Task Force¹⁹⁰ held consultative meetings in the regions of Gjilan, Pejë, Gjakovë and Prizren. The concerns raised in these meetings mainly consisted of the non-respect of the rights on safety and health at work in the public and private sectors in the country, the lack of effective inspections by the Labor Inspectorate regarding the damages and risks which can affect in different ways employees in terms of gender, and the lack of implementation of gender standards, to guarantee safety and health at work for all women and men, which would fulfill the special and necessary needs from the gender aspect.

On the basis of the issues raised above, the Ombudsperson launched ex-officio investigations on safety and health at work in the country, and assessed the necessity of implementing and applying legal standards guaranteed in the country as well as international ones from a gender perspective on safety and health at work, especially ILO conventions and recommendations. The Ombudsperson assessed that it is very necessary from the point of view of the fulfillment of human rights for the state to guarantee the protection provided by the international legal framework and the latest developments related to safety and health at work in terms of gender integration.

The Ombudsperson has also assessed the need for the list of occupational diseases to be approved as soon as possible, which, among other things, would facilitate the identification of potential risks, would help in raising awareness of damage prevention and

the level of impact of diseases on women and men, and would facilitate access to accident investigation mechanisms and occupational disease compensation mechanisms, which as issues become potentially gender-segregated.

Given that the state's obligations consist of the commitment to determine the main factors that influence gender differences when it comes to exposure to risks, accidents and diseases at work, it is necessary to take appropriate and effective measures to eliminate them, including preventive measures.

The Ombudsperson considers that the Government of Kosovo should have it in mind to enable the institutional mechanisms to provide a solid basis for progress as defined in the ILO's policy on gender equality, which essentially requires trained professional staff and organization effective institutional. The Ombudsperson considers that the Labor Inspectorate should be strengthened and advanced in such a way that in the inspections carried out in the private sector, it has the opportunity to identify the need to more accurately define the application of safety and health at work towards vulnerable gender situations, because simple and unidentified exclusions may lead to disproportionate impact on men and women, and also ensure gender-disaggregated data collection.

190 The Ombudsperson, in cooperation with "UN Women", founded the "Informal Advocacy Task Force on Gender-Sensitive Standards of Safety and Health at Work and Decent Work in Kosovo". The main goal of this task force is to advocate for and promote safety and health in the workplace for all.

Health and Social Protection

During the reporting year (2023), the Ombudsperson received 267 complaints regarding health and social protection, of which 58 cases were opened for investigation. Also, it should be noted that five (5) cases were opened ex officio. The nature of the complaints received/handled by the health scope mainly deals with: violation of the right from the work relationship, namely due to non-licensing and re-licensing of some categories of health professionals, non-inclusion in the essential list of some medications for people affected by melanoma disease, the violation of the right to health treatment, claims for the violation of the right to medical treatment outside public health institutions, the lack of legal infrastructure and obstacles in the supply of medicines and vaccines in the pharmaceutical sector, etc.

The cases opened according to the official duty are related to mental health for people over 65 years old, the protection of health rights through the supply of medicines from the essential list, related to the risk to the health and lives of residents in the neighborhood of the Roma, Ashkali and Egyptian in the municipality of Mitrovica from environmental pollution, abandonment and leaving children without parental care, etc.

Even this year there was a lack of regular supplies of essential drugs, medical products and equipment as well as consumables. Also, there continued to be long waits for patients to perform some types of interventions.

Non-functionalization of the Health Information System and non-implementation of Law no. 04/L-249 on Health Insurance, remains a concern for the Ombudsperson, therefore it reiterates the request that

all measures be urgently taken to start the implementation of this law and the functionalization of the Health Information System.

The International Convention on Economic, Social and Cultural Rights continues not to be part of the Constitution of the Republic of Kosovo.

The lack of palliative care in secondary and tertiary health institutions has caused many problems, especially for patients with malignant diseases, who are forced to spend the last phase of life at home due to the lack of provision of this service in hospitals and clinics. In Kosovo, primary health care institutions offer palliative care services through home visits in municipalities. But this category of people needs health services with beds as well as continuous health care.

The nature of the complaints received/handled during the reporting year by the social scope mainly deals with the categorization of pensions, the blocking of pension bank accounts and social assistance in the enforcement procedure, the blocking of pension bank accounts as a result of not updating personal data , conditioning of double pensions, etc.

The Ombudsperson, referring to the complaints received and the investigations conducted in the framework of the issues he handled during the reporting year, notes that the economic and social situation of some families in Kosovo is difficult. The lack of minimum living conditions, the procrastination of judicial and administrative procedures in cases of pensions, as well as in the case of persons with disabilities, the lack of rehabilitation services for these social groups, makes these families face undignified living conditions.

With concern, the Ombudsperson received complaints from the Association of KLA

War Veterans, who, among other things, complained that the authorities did not ensure the replacement of prostheses according to the terms and standards for their replacement. For this issue, the Ombudsperson has started an investigation as it considers that the non-provision of this service for this category represents, in addition to the violation of the right to health and social protection, also the inhumane treatment of veterans.

Responsibility for the Living Environment

The Constitution¹⁹¹ stipulates that "*The institutions of public power are committed to guarantee everyone the opportunity to influence the decisions related to the living environment where he/she lives*".

The Ombudsperson, during this year, received 15 complaints related to the limitation of the right to a safe and healthy environment, as well as the limitation of other rights from the impact of environmental problems. The cases under investigation are related to environmental pollution, littering, lack of action by the authorities in terms of environmental problems, water, air, soil pollution, bad management of waste dumps and pollution with waste, exploitation of river beds, the right of public participation in decision-making, etc.

On the occasion of the World Environment Day, the Ombudsperson, through an address to the public, reiterated the importance of the engagement of public institutions in the country, for undertaking the necessary actions and measures for the protection and preservation of the environment so that the citizens of the country they are provided with a clean, healthy and accessible living environment for all, without distinction.

The Ombudsperson notes that during the reporting year the protection of the environment as a human right has continued to not be part of the Government's priorities. There has not been any significant improvement which would indicate the undertaking of sustainable institutional actions to prevent arbitrary interventions and

remediate environmental problems both at the central and local level.

Although there has been an improvement in the actions of public institutions, especially educational ones, the media and CSOs, it remains to strengthen actions in the direction of public awareness of environmental problems, the impact on human rights and the forms of realizing environmental rights.

Despite the legal guarantee to ensure the right of citizens to live in an environment with clean air, with a focus on protecting human health,¹⁹² the air quality in the country remains almost the same¹⁹³. Although it was not possible to obtain data related to air quality from the competent bodies this year, the Ombudsperson has found that again during the year, exceedances of acceptable air standards were recorded in the period January-March and November-December.

It is necessary to evaluate the information of the public on a daily basis by the Kosovo Institute for Public Health in cases where the excesses present a negative impact on the health of the citizens.

The Ombudsperson followed with interest the adoption of the Energy Strategy, which promotes the integration of renewable sources and energy efficiency, especially in the situation where statistics show that the country manages to be supplied with only 5% of renewable energy, even more than 90 % of the supply is made by power plants with lignite, which is estimated as the main source of pollution.

Even this year, the arbitrary and indiscriminate intervention for the exploitation of sand and gravel from the river beds and their banks, as well as the deforestation of the river banks, has continued. Likewise, no actions have been taken in terms of regular monitoring of the quality of lake waters and underground

191 Constitution, Article 52, paragraph 2

192 Law No. 08/L-025 on Air Pollution Protection.

193 <https://airqualitykosova.rks-gov.net/>, During 2022, the air quality level was 69.8% of the time at the level of very good and good air, 12.7% of the time moderate and 19,5% in the level of unhealthy and very unhealthy air quality.

waters, as there is no biological monitoring of surface waters either.

Climate changes impose measures to balance the construction of water infrastructure and other measures to prevent the risks that come as a result of these changes. The lack of these measures, this year has caused flooding as a result of the rains and the rivers coming out of their beds. The floods have affected the municipalities of Skenderaj, Mitrovica, Podujevë, Istog, Klinë and Pejë. The floods have caused numerous consequences and material damages, leaving many families without shelter due to flooded houses. Numerous material damages have also been caused in agriculture and family economies.

The most serious case with consequences of loss of life occurred in the municipality of Peja, as a result of flooding from the rain, which was estimated to have come as a result of uncontrolled construction in violation of the construction and water law. As a result of the floods in this case, a woman and her 5-year-old child lost their lives.

Changing the destination of agricultural land without criteria contrary to the Law on Agricultural Land has not marked improvement. No positive changes have been observed in respect of the Law on Spatial Planning and the Law on Construction.

This year, the Ombudsperson has published Ex-officio Report 648/2021 regarding the assessment of the accessibility of sidewalks and public spaces with an impact on the free movement of citizens and respect for the right to a safe and healthy living environment, in the municipality of Pristina, Ferizaj and Prizren.

Illegal landfills, as well as improper management of sanitary landfills, pose a serious threat to the environment and the health of citizens. No step has been taken in the direction of waste recycling. There is almost no movement on finding solutions

for hazardous and industrial waste, the flow of harmful materials from mines and mine tailings, used oils, pesticides, car waste¹⁹⁴, and lake ash disposal.

Even this year, it was not possible to approve the new Law on protection from noise, which would put under control the protection of citizens' privacy from noise and nuisance, as well as the Law on the Inspectorate of the environment, water, nature, construction, housing, protection of nuclear safety failed to be approved.

Compared to last year, the Ombudsperson notes a decrease in informing the public about environmental issues. There are no updated reports, nor has it been possible to get a response from the competent bodies. Although the procedures in the courts for hydropower plants have been processed within reasonable time limits, the processing of environmental cases or those related to the environment remains a challenge.

¹⁹⁴ Ibid, p. 26

The background of the cover is a solid dark blue. A large, light blue, semi-transparent shape, resembling a stylized wave or a large letter 'A', is positioned in the upper right quadrant. The text is white and located in the lower right area of the cover.

National Torture Prevention Mechanism

National Torture Prevention Mechanism

Article 22 of the Constitution of the Republic of Kosovo establishes that human rights and freedoms guaranteed by international agreements and instruments are guaranteed by this Constitution, are directly applied in the Republic of Kosovo and have priority, in case of conflict, over the provisions of other laws and acts of public institutions. One of the conventions provided for in this article is the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

Article 17 of Law no. 05/L-019 for the Ombudsperson, provides for the Ombudsperson to act as a National Mechanism for the Prevention of Torture and other cruel, inhuman and degrading treatment and punishments.

The law defines the duties of this mechanism: to visit regularly and without warning all places where persons deprived of their liberty are kept, including police detention, detention, stay in health institutions, customs detention, immigration detention and any other place where it is suspected that violation of human rights and freedoms.

The Ombudsperson can give suggestions and recommendations to the responsible persons and institutions where persons deprived of their liberty are held, regardless of the type or object and circumstances of their detention, for the improvement of their treatment and conditions. The ombudsman in the role of NMP, in the future will be obliged to report like other states that have established NMP according to the Optional Protocol of the UN Convention against Torture (OPCAT)¹⁹⁵.

Visits of the NMP

During 2023, the NMP made 61 unannounced visits to all places where persons deprived of their liberty are kept:

- 13 follow-up visits, with the aim of verifying the implementation of the PA's recommendations, at police stations.
- 1 visit to the Border Point in Vermica, together with UNHCR and CRPK.
- 17 visits to Correctional Centers, with the purpose of interviewing imprisoned persons as well as with the purpose of monitoring the implementation of the recommendations of the Ombudsperson.
- 8 visits to Detention Centers, such as: Gjilan, Prizren, Mitrovica, Pristina.
- 3 monitorings at "Adem Jashari" International Airport, regarding forced return (based on the agreement with the National Commission for the Prevention of Torture of Switzerland)
- 1 visit to the Reception Center for Migrants in Vranidoll;
- 1 visit to the Reception Center for Returnees in Pristina;
- 4 visits to mental health institutions (Institute of Forensic Psychiatry of Kosovo, Psychiatric Clinic and Psychiatric Intensive Care Emergency);
- 5 visits to social care institutions (Special Institute in Shtime, Home for Mentally Handicapped Children in Shtime, Community-based Homes);
- 3 visits to Mental Health Centers (Integrative Rehabilitation Center for Chronic Psychiatric Patients, Community Integrative Home);
- 5 visits to Homes for the Elderly and without Family Care.

¹⁹⁵ <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-against-torture-and-other-cruel>

Regarding the aforementioned visits. The Ombudsperson has published four reports and has addressed 28 recommendations to the responsible authorities, in which these authorities have responded to the Ombudsperson.

Conditional release - Parole

The Ombudsperson has received 4 complaints from prisoners who have applied for conditional release, of which only one complaint has been opened for further investigation. During the visits of the NMP, complaints against the Parole Panel (PLK) were also received, which were of different natures: their requests were not examined in time; did not agree with the reasons for rejecting requests; the decision contained facts which they did not consider to be about the person himself; the decisions were templates, in which only personal data were changed, etc. NMP representatives have advised the parties for all accepted requests, held a meeting with PLK representatives, where they disclosed the prisoners' concerns, as well as received information from the prison administration.

This year, PLK issued the Regulation for the Organization and Operation of PLK, while representatives of NMP also participated in the working group on the drafting of the regulation.

In the reporting year, PLK reviewed a total of 872 requests for conditional release, of which 395 requests were approved. Under the supervision of the Probation Service of Kosovo (PSK), there have been 625 persons released on parole, 16 of whom have had their parole revoked.

Visits to Detainment Centers and Police Stations

The visits that NMP makes to Detention Centers and Police Stations are aimed at evaluating and respecting human rights, including respecting the legal term of 24/48

hour detention, signs of violence during arrest, their transport and treatment in the investigator, health treatment, food, hygiene and sanitary conditions in the Holding Rooms.

During the visits, the respect of the three basic rights of the arrested persons is evaluated: the right to notify the family or the other person of their choice about the arrest; the right to a defense lawyer; and the right to medical services. These rights represent guarantees against ill-treatment also foreseen by the Committee for the Prevention of Torture.¹⁹⁶

This year, the Ombudsperson has received 59 complaints against the Kosovo Police, of which 25 have been opened for further investigation. The complaints mainly concern allegations of excessive use of force and ineffective investigations by the police.

NPM has carried out visits to the Regional Detention Center in Pristina, to the Police Station in Istog, the Police Station in Deçan, the Police Station in Pejë, the Police Station in Fushë Kosovë, the Police Station South Pristina, the Police Station North Pristina, the Police Station in Dragash, Police Station in Shtime, Police Station in Lipjan, Police Station in Ferizaj, Police Station in Gjilan and Border Point in Vermica.

Files of those arrested

NMP, during the visits to the police stations visited, noticed that all the police stations have the standard document (arrested file), in which all the data related to the arrested are recorded. In addition, in each police station visited, NMP noticed that there were additional concrete documents, in which the police authorities had recorded every event related to the arrested person.

Physical conditions at the police stations

Based on Standard Operating Procedures (SOPs), detention centers must be in

¹⁹⁶ European Committee for the Prevention of Torture, 2nd General Report, published in 1992. See at: <https://rm.coe.int/16806cea2f>

compliance with the ECHR and the Recommendations of the Committee for the Prevention of Torture (CPT), which are based on the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment¹⁹⁷. During the visits, it was observed that there are improvements in the conditions of detention in some police stations, however, poor conditions continue to remain in the Detention Center in Pristina, in Gjilan, Fushë Kosovë and Ferizaj.¹⁹⁸

Health care

Regarding medical services, as a basic right, to persons who are arrested by the police, these services are offered by the family medicine center and the University Clinical Center, depending on the needs for treatment. NMP has not received any complaints from the interviewed persons regarding this right. Also, from the reviewed documentation, it was observed that the police recorded in their personal files the notification about the right to have medical services.

Food

During the visits to the police stations visited, the NMP was informed by the police officials

that the arrested have expressed concerns about the poor quality and insufficient quantity of food that is offered according to the contract that the Police has with the contracting company.

Correctional and Detention Centers

During this year, the NMP has carried out 25 visits, with the aim of preventing the violation of the rights of persons deprived of their liberty, with the aim of interviewing them, as well as with the aim of monitoring the implementation of the recommendations of the Ombudsperson.

The Ombudsperson, through the NPM, has carried out follow-up visits in order to monitor the implementation of the recommendations addressed through reports and Ad Hoc visits to these centers: High Security Prison,¹⁹⁹ Detention Center in Pristina,²⁰⁰ Correctional Center in Dubrava²⁰¹, Correctional Center for minors (Mother and Child Home)²⁰² Correctional Center for Women²⁰³, Smrekonica Correctional Center,²⁰⁴ Detention Center in Prizren,²⁰⁵ Detention Center in Gjilan²⁰⁶ Detention Center in Mitrovica,²⁰⁷ Pavilion D in Dubrava.²⁰⁸ All visits have the

197 Kosovo Police, Standard Operating Procedures for Detention Centers, DDO-04/0121/2016, point 1.6, page 4

198 More information about the information about all the stations visited separately can be found in the special Report of the NMP;

199 NMP has made six visits to BSL, on January 12, June 26, July 27, September 26, October 11 and December 7, 2023;

200 NMP in the Detention Center in Pristina made 3 visits, on May 19, July 14 and August 17, 2023;

201 Visit to CC Dubrava, on March 15-17 and October 12, 2023;;

202 Visit to CC Lipjan (Mother and Child Home), on March 7, April 6, May 12, 2023. Whereas, on June 1, 2023, an informative lecture was held by the Ministry of Education, Culture and Science, in honor of World Children's Day;

203 Visit to the CC for Women in Lipjan, on April 6 and June 6, 2023;

204 Visit to CC Smrekonica, on July 13, 2023. However, regular monthly visits, with the aim of opening complaint boxes and interviewing persons deprived of their liberty, were carried out by the colleague from the Regional Office in Mitrovica;

205 Visit to KP Prizren on July 19, 2023. However, regular monthly visits, with the aim of opening complaint boxes and interviewing persons deprived of their liberty, were carried out by the team from the Regional Office in Prizren;

206 Visit to CC Gjilan on July 20, 2023. However, regular monthly visits were carried out by the colleague from the Regional Office in Gjilan, with the aim of opening complaint boxes and interviewing persons deprived of their liberty;

207 Visit to CC Mitrovica on August 2, 2023, however, this center is also visited by the colleagues of the Regional Office in the North of Mitrovica, with the aim of opening complaint boxes and interviewing persons deprived of their liberty;

208 Visit to Pavijon D in Dubravë CC on June 23, together with a delegation from the Ombudsperson of Albania,

purpose of monitoring the implementation of the recommendations of the Ombudsman, as well as some of the visits have the purpose of interviewing detained persons, after the riots in the North of Mitrovica and Banjska, such as the visits to the High Security Prison and Detention Center in Gjilan and Pristina.

NMP has monitored the aspects of the treatment of persons deprived of their liberty, assessing the treatment and protection of convicts and detainees, material conditions and living conditions, regime and activities, contact with the outside world, health treatment, categorization, eventual conflicts between convicts/detainees, mental and physical abuse, the special needs of sensitive groups, as well as all other aspects related to the treatment of this category of persons.

Complaints of persons deprived of their liberty

The Ombudsperson has received over 260 phone calls from convicts/detainees, family members, lawyers, social workers and staff of monitored institutions. Also, NMP has conducted over 320 individual and group interviews in the countries visited during 2023.

During 2023, the Ombudsperson received 128 complaints related to transfers to other centers, against court decisions, health treatment, PLK, non-treatment of requests by management, and so on. 30 of these complaints have been opened for further investigation, while 4 other cases have been opened for investigation by official duty.

Treatment of persons with mental illness

Keeping and treating elderly people, those with chronic diseases, people with mental disorders and users of narcotic substances, continues to remain among the main challenges for all institutions. These categories are difficult to manage because of the specifics they have and because the correctional staff is not trained to take care of this category.

According to the statistics received by the Health Directorate of Prisons, the total number of people with mental disorders, personality disorders and psychiatric therapy in prisons this year is 248 people; with chronic diseases 236; 6 people with special needs and 51 people over the age of 65.

This year, there have been some positive steps regarding the conditions for prisoners of this category, so that in the Dubrava Central Prison, Pavilion D has been adapted for the placement of persons with special needs, however, this is insufficient space. On the other hand, the increase of capacities in the Institute of Forensic Psychiatry is expected to alleviate the situation for the correctional centers, regarding the persons who are kept serving their sentence.

Foreign nationals who are serving sentences in correctional and detention centers

During the visits, foreigners who are held in correctional and detention centers were also interviewed. Regarding the treatment in prison, no complaints have been received, but complaints have been submitted regarding the extension of the judicial process as well as the request for transfer to the country from which they come.²⁰⁹ The Ombudsperson has advised and instructed the same on the actions to be taken, as well as registered a case, which has a request for deportation to his country.²¹⁰

Treatment

During the visits carried out by the NMP in 2023, it was observed that there was no use of force and mistreatment of convicts and detainees. However, there are claims of excessive force being used in the High Security Prison, the Dubrava Correctional Center and the Gjilan Detention Center. From the handling of the complaints and information provided, looking at the medical files, as well as the reports of the commissions of investigation, no use of force and ill-treatment of convicts and pre-detainees was observed.

with SHKK and DSHB as well as on October 31, 2023;

209 A.no.535/2023, Sherali against GHTHGJ,

210 A.no.548/2023, Stumm against PTHP, submitted through the defense lawyer, Fidan Hetemi

Incidents among prisoners

Incidents between prisoners are present in all correctional institutions, but this phenomenon was more pronounced in the Dubrava Correctional Facility, where 74 incidents were recorded in March alone. After taking immediate measures by the management of the CC and the Correctional Service, the number of incidents has decreased.

The Health Directorate of Prisons has reported on cases according to the Standard Operating Procedures on the functioning of health services in prisons. Also, it was reported about the new admissions, with injuries, which were admitted to the correctional and detention centers. In those cases, when there are suspicions that the injuries were caused by the excessive use of force by the police, the parties were interviewed and instructed on the actions they should take, and were in communication with the Police Inspectorate of Kosovo, until the end.

Conditions of accommodation in correctional centers and detention centers

The Detention Center in Pejë, the Detention Center in Prizren, the Correctional Center for Women in Lipjan, as well as the Mother and Baby Home in Lipjan, do not meet the standards required for holding persons deprived of their liberty, while the Correctional Center in Dubrava has constant need for renovations.

There are institutional efforts to realize the reconstruction projects of these centers, since the site for the construction of the Detention Center in Prizren has been selected, in cooperation with the municipality, while for the Correctional Center in Lipjan, the project has taken shape and has been presented to interest groups, including the Ombudsperson and civil society.²¹¹

Deaths, suicides, attempted suicides, and self-inflicted injuries

During the year 2023, 6 deaths were recorded in the correctional and detention centers, of which one death was the result of hanging. Five of these deaths occurred during hospital treatment (3 at UCK and 2 at Peja Hospital). Internal investigations have been conducted for all cases, as well as proceedings and investigations by the competent bodies, as long as the NMP has assessed that the procedures foreseen with the standard operating practices have been respected.

According to the information provided by the Health Directorate of Prisons, during this year there were 34 cases of suicide attempts in prisons; 125 cases of self-injury; in 81 cases of hunger strike and in 5 cases of suspected sexual abuse.

This year, the Correctional Service and the Health Directorate of Prisons have released the Guidelines for the Prevention of Suicide, in support of the project of the Council of Europe, which will serve the correctional and health staff in the easier identification of cases that have a predisposition to self-harm and suicide.

The overcrowding

From the visits, it appears that there is no overcrowding in the correctional and detention centers. There was only one case of overcrowding in the Detention Center in Gjilan, which came as a result of the relocation of prisoners due to the renovations undertaken in order to remedy the problems with the water installations, which situation was avoided very quickly.

The regime

Categorization and regimes have made progress, especially in new institutions, but this remains a challenge for institutions where the facilities are old, due to space.

²¹¹ On December 26, 2023, at the invitation of the Kosovo Correctional Service, the institutions involved in the discussions for the construction of the Correctional Center in Lipjan, came to the scene, giving concrete proposals on how the center should look for a more standard operation;

NMP has continuously recommended the importance of involving as many prisoners as possible in work, and the need for priority treatment of the Economic Unit, since work engagement represents one of the most important aspects in the rehabilitation and resocialization of prisoners. The commitment of convicts to work and their training has positive effects even after serving the sentence.

In the High Security Prison (HSP), convicts are involved in work, in the workshops for the production of toilet paper, processing wood, bags, in the kitchen, cleaning, and so on. HSP also supplies other centers with toilet paper and wood products. However, the Ombudsperson continues to receive complaints from detainees in HSP, because of the time they are allowed to spend outside the cell, only 2 hours a day, while 22 hours are closed, without any activity. These concerns have also been accepted in other centers.

Also, in the Dubrava Prison, prisoners are engaged in various jobs, such as agriculture, animal husbandry, cooking, and so on. In the Correctional Center in Smrekonica, prisoners are engaged in agriculture, who supply the kitchens of all correctional institutions with agricultural products, some other prisoners use the right to work outside the institution during the day. In the Correctional Center for Women, convicts are engaged in tailoring, cooking, etc.

While, in other centers, prisoners are mainly engaged in kitchen, laundry and other maintenance work of the center.

Prisoners are paid for their work, regardless of work, with a symbolic payment (1 euro per day), so serious consideration should be given to improving working conditions for convicts and raising the payment.

Also, convicts are involved in various rehabilitation programs, which will help reduce recidivism and improve their general well-being.

A total of 114 convicts are involved in anger management; 34 convicts are included in the "Conversation for Change" training; in the training for "Domestic Violence" 18 convicts; in the "Tops" program, 6 juvenile convicts; and 18 convicts are involved in the Y+ program held for minors.

Food and cuisine

During the visits, the NMP pays special attention to the quality of the food for the prisoners, as well as the storage and preparation conditions. During the visits to the correctional institutions, kitchens and warehouses where food is stored were also visited. NMP has observed that the warehouses where food products are kept are properly stored. The kitchen workers had sanitary booklets, but there is still a lack of adequate uniforms (CC Dubravë). Also, the kitchen equipment was outdated despite some new supplies, for which the Ombudsperson gave a recommendation in the report for Dubrava.

NPM assesses that the quality of food is generally good, but complaints have been received from prisoners regarding the quality of food, and in some cases also about the quantity. The prisoners have submitted requests that the canteens be better supplied, especially with fruits and vegetables (HSP).

The health

During monitoring, the NMP attaches special importance to health treatment in prisons, and in particular to sensitive groups, such as persons with mental disorders, those with serious illnesses, self-injured persons, etc. The health units operating within the correctional institutions have been well equipped, although in some institutions the premises have been inadequate, such as in Prizren Prison, Mitrovica Prison.

The supply of drugs was not good at the beginning of 2023, due to the tendering procedures, which have been ongoing since the previous year, and for which situation

the Director of the Health Directorate of Prisons has also filed a complaint with the Ombudsperson.²¹² At this time, the NMP has also received numerous complaints, but it has also presented difficulties for the health staff in performing their work duties. The prisoners have been allowed to receive drugs from their relatives, until the situation is avoided in June 2023. The prisoners have also presented complaints of other natures, related to health, such as: loss of controls outside the institution, as there are frequent requests that they are sent outside the institution.

Medical protocols are of particular importance in the treatment of prisoners and NMP has observed that they are maintained according to Standard Operating Procedures.²¹³

Disciplinary measures

During the visits made this year, in the correctional and detention centers, an increased attention has been paid to the disciplinary measures of solitary confinement, in order to assess whether local and international standards are being respected. NMP has observed that, in general, the fundamental rights of prisoners were respected during the time of solitary confinement. They have been offered medical services, they have been cleaned, they have used the right to communicate with their family, they have gone out into the fresh air. According to statistics provided by DSHB, this year, in all correctional and detention centers, solitary confinement was imposed in 625 cases.

Complaints procedure

This mechanism is of special importance and NMP takes care to be informed about the operation and confidentiality provided by the institution. Some prisoners have expressed concerns about its effectiveness, because according to them, in many cases they do

not receive answers, or are reviewed late, and there is not enough confidentiality, since it must be handed over to correctional staff, who do not treat seriously. The management of the visited center was also informed about these complaints.

Contact with the external world

The Ombudsperson has complaint boxes in all correctional and detention centers to which only representatives of the Ombudsperson have access, and conducts interviews without the presence of correctional officers. Likewise, persons deprived of their liberty use the right to phone calls and visits from family members. Regarding this right, the Ombudsperson has received several complaints, especially from those people who are not citizens of Kosovo or who have families outside of Kosovo. This problem has come as a result of the agreement that SHKK has with the telephone services where the cards are produced abroad and for some time they have not had the opportunity to provide them. In those cases, they used Skype communication.

Contraband and corruption

NMP estimates that during the year under report, the Correctional Service of Kosovo has been more professional and managed to prevent several cases of smuggling. Mostly these cases happened in CC in Dubrava, while the High Security Prison is regarded as a good model for the prevention of smuggling.

Implementation of the Recommendations of the Ombudsperson

NPM has evaluated the implementation of the Recommendations given through special visit reports and it has been announced that all the recommendations have been treated seriously and have either been fully implemented or are in the implementation phase.

212 A. 492/2022, M. Gj. against MSH;

213 The Health Directorate of Prisons in support of the Council of Europe, in June 2023, has published the new Guide to Standard Operating Practices on the Operation of Health Services in Prisons;

The Correctional Service of Kosovo, in the past, has faced a shortage of correctional staff, especially due to the average age of the existing staff (over 50 years old), which has directly affected the overall work performance. This year, there have been new recruitments of correctional officers,²¹⁴ who have continued with holding professional trainings.

The Ombudsperson through the NPM, from the visits made, finds that the treatment of persons deprived of their liberty is generally at a good level and that they have not received complaints about physical abuse or non-respect of basic rights.

The Rights of Foreigners

According to the Regulation and Law on Foreigners, as well as the Standards of the European Committee for the Prevention of Torture, foreigners within the framework of guarantees against ill-treatment should have the same rights as all other categories of detained persons.

During 2023, the Ombudsperson received 13 complaints from foreigners, of which 4 complaints were opened as cases for investigation, these cases are related to court proceedings.

Temporary Migrant Reception Center in Vranidoll

During 2023, the NMP team visited the Temporary Reception Center for Migrants in Vranidoll. The purpose of the visit to this center was to assess the respect of the basic rights of migrants by the authorities of the Republic of Kosovo, in accordance with the applicable legislation in our country and with the international standards for human rights embodied in the Constitution.

NMP, during the visit, was informed that this center was founded on June 24, 2022, by decision of the Minister of the Interior and

will temporarily function as an organizational unit equivalent to the division, within the Department for Citizenship, Asylum and Migration in the Interior.

The Temporary Reception Center for Migrants takes care of the reception and accommodation of migrants with irregular status in the territory of the Republic of Kosovo, as well as the conditions, protection and well-being of migrants according to the legislation in force. The capacity of the center is for 52 people, 22 migrants were present during the visit, while there were no unaccompanied children. People can stay in this Center for 15 days, unless the Directorate for Migration and Foreigners decides otherwise. In cases of incidents between migrants, the police is notified.

On the other hand, the Directorate for Migration and Foreigners within the Kosovo Police takes care of the reception, registration, profiling and referral of migrants with irregular status in the territory of the Republic of Kosovo to the Temporary Reception Center for Migrants.

As for the notification about the basic rights of migrants, NMP has noticed that the representative from IOM informs them on a daily basis in their language about these rights, as well as there are brochures in several languages which are accessible²¹⁵.

The Reception Center for Returnees in Prishtina

On August 15, 2023, the NMP team carried out a monitoring visit to this center for the first time. The purpose of the visit was to assess the respect for the fundamental rights of persons who voluntarily or forcibly return from European countries.

The Reception Center for Returnees has a capacity for 25 people, but in emergency cases it can accommodate up to 50 people. Accommodation conditions in this center are

²¹⁴ On November 24, 2023, the Kosovo Correctional Service marked the 24th anniversary of its establishment and for the first time the graduation of 45 female correctional officers;

²¹⁵ For more see the special report of NMP for the year 2023

good and meet the required standards. Also, medical services for repatriates are provided by the nearest Family Medicine Center, as a basic right of them.

Monitoring of forced return operations

Based on the Memorandum of Understanding signed between the Ombudsperson Institution and the Swiss National Commission for the Prevention of Torture, during 2023, the NMP monitored three (3) forced return operations at Pristina International Airport "Adem Jashari" citizens of the Republic of Kosovo from the Swiss authorities.

NMP, during the monitoring of the said operations, interviewed the returnees and did not accept complaints regarding their treatment by the police authorities of the Republic of Kosovo. He also noted that the returnees were treated correctly and humanely by the Swiss officials. During the monitoring of these operations, NMP had full cooperation with the Kosovo Police.

After the training that NMP officials have had from Frontex (European Coast and Border Guard Agency), these monitoring will be carried out from the moment the plane lands, until the moment when the returning citizens are handed over to the Kosovar authorities.

Institutions of mental health and those of social care

During regular and follow-up visits, in mental health and social care institutions, the NMP has assessed the current situation in them and compliance with local and international standards. In addition, it has evaluated the treatment and accommodation of residents within the framework of respect for human dignity and human rights.

During 2023, the Emergency and Psychiatric Intensive Care Department of the Psychiatric Clinic (UKIP) were also visited²¹⁶, Center for

the Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPPSh), Community Integration House in Gjilan and Prizren, Special Institute in Shtime, Community-Based Homes in Ferizaj and Vushtri.

During the visit to the Clinic of Psychiatry and the Department of Emergency and Intensive Psychiatric Care (EIPC), no complaints were received, no mistreatment was recorded, but the NMP estimates that the conditions of placement of residents there do not meet the required standards²¹⁷. In the visit of December 14, 2023, NMP noticed that the accommodation conditions continued to be the same and that no action was taken by the responsible authority to improve the situation.

Community integration houses

In the Republic of Kosovo, there are a total of 9 Integration Houses in the Community. Each of them has a capacity for 10 residents, except IHC Mitrovica, which has a capacity for 20 residents. These Homes provide 24-hour health care for the rehabilitation and social reintegration of clients with illnesses and chronic psychotic disorders in remission.

The purpose of the follow-up visits that NMP has carried out in the Community Integration House in Ferizaj and the Community Integration House in Prizren was to inform about the conditions of keeping and treating residents, in the function of rehabilitation and social reintegration. In these institutions, cases with mental retardation or dementia are not accepted or treated. During the visits, interviews were conducted with the residents without the presence of the staff of the Homes and no complaints were received regarding the treatment and conditions offered there.

216 NMP visited the Psychiatric Clinic and the Psychiatric Emergency and Intensive Care Department (PEICD), on March 3, 2023;

217 <https://oik-rks.org/2023/10/04/raport-i-NPMt-se-lidhur-me-viziten-ne-kliniken-psikiatrike-te-qendres-klinike-universitare-te-kosoves-urgjenca-dhe-kujdesi-intensiv-psikiatrik/>

Institutions of social care

Special Institute in Shtime (SISh), Home for Children with Mental Disabilities in Shtime, Community-Based Homes (CBH)

In the Special Institute in Shtime and in nine [9] Community-Based Homes, treatment is provided for people with mental disabilities - retardation in mental development. The Special Institute in Shtime and the Community-Based Homes are regulated and operate on the basis of UA no. 11/2014 *On the Work and Placement of Residents, Persons with Mental Disabilities-Retardation in Mental Development in the Special Institute in Shtime and the Homes Based in the community*. This UA provides for the treatment of persons who have been deprived of legal capacity by the Basic Courts. During the visits, the NPM was informed that all the cases placed in these institutions have been deprived of their ability to act and have been assigned legal custody.

During the follow-up visit that NMP made to the Special Institute in Shtime (SISh)²¹⁸, it was announced that services are offered 24 hours a day in this institute and currently 22 women and 38 men are placed.

From the management of the center, NMP was informed that the Special Institute in Shtime from 2023 is under the management of the Ministry of Health and that a decision has been made to move the Institute to a new location.

The Council of Europe has started the implementation of the project in support of the Special Institute in Shtime, while the NMP team is regularly invited to workshops to provide professional monitoring expertise.

Visit to the Home of Children with Mental Disabilities in Shtime

NMP has carried out a follow-up visit to the Children's Home in Shtime. This institution is the only open type institution with a capacity of 10 beds and during the visit to this institution, NMP observed that nine (9) residents are accommodated, 5 women and 4 men. The treatment and conditions offered by this house are within the required standards, however, the fact that it currently accommodates people who have already reached the age of majority remains a challenge, despite the fact that this house is intended for people up to the age of 18.

Community Based Homes (CBK)

The Ombudsperson through the NMP, during the year 2023, visited without warning the Community-Based Homes in Prizren ²¹⁹, in Ferizaj²²⁰ and in Vushtrri²²¹.

The treatment and conditions offered by these houses, NMP assesses that they meet the standards and during the visits, it did not receive any complaints of ill-treatment. Moreover, he noticed a good atmosphere of communication between residents and staff. These homes receive health services at Mental Health Centers. The general practitioner also visits them every two weeks. While there were enough supplies of food and clothing.

Although the infrastructure was with new facilities in Prizren and Ferizaj, due to the lack of maintenance, they were not well maintained and dirty.

²¹⁸ On November 2, 2023, the National Torture Prevention Mechanism of the Ombudsperson made a follow-up visit to the Special Institute in Shtime;

²¹⁹ On February 20, 2023, NMP visited the Community-Based Home in Prizren;

²²⁰ On November 16, 2023, NMP conducted a monitoring visit to the Community-Based House in Ferizaj;

²²¹ On January 26, 2023, NMP visited the Community-Based Home in Vushtrri;

Mental Health Institutions visited during the year 2023

Visited institutions	No. of visits
2. Psychiatric Clinic – Department of Emergency and Psychiatric Intensive Care of the Psychiatric Clinic (henceforth: PICPC).	3
3. Center for Integration and Rehabilitation of Chronic Psychiatric Patients in Shtime (CIRCPPSh).	1
4. Special Institute in Shtime (SISh).	1
5. Home for Children with Mental Disabilities in Stime.	1
6. Community-Based House in Vushtrri	1
7. Community-Based House (CBH) in Ferizaj.	1
9. Residential or Community-Based House in Prizren.	1
10. Community Integration House in Ferizaj	1
11. Community Integration House in Prizren	1

Homes for elderly people and those without family care

The Ombudsman, through the National Mechanism for the Prevention of Torture, during 2023, visited the Home for Elderly Persons without Family Care in Pristina (HEPFCP)²²², the Home for Elderly Persons without Family Care in Gurrakoc.²²³ The purpose of the visits was to evaluate the treatment and accommodation of the elderly placed in these Homes, as well as the progress of the competent authorities in implementing the recommendations of the OIK, sent through previous reports with recommendations.

With Regulation no. 09/2008 on the Internal Work Organization for the Home for the Elderly and without Family Care (hereinafter: the Regulation) regulates the issue of criteria for the acceptance of residents, the organization of life and work with users (residents), household rules and activities, health protection of users, as well as other issues about the life and work of HEPFCP users.²²⁴

The legislation of the Republic of Kosovo does not define involuntary placement in social care institutions. All residents placed in this institution are placed based on the contract signed with the said institution. It is therefore considered that all residents have settled here on the basis of their own will.

The Home for Elderly Persons without Family Care (HEPFCP) in Prishtina, is an institution with a social character which operated within the Ministry of Finance, Labor and Transfers and is now under the management of the Municipality of Pristina. However, the Homes for the Elderly and without Family Care in Gurrakoc is under the management of the Municipality of Istog.

During the visits to these institutions, the NMP interviewed the accommodated elderly persons and did not receive any complaints of physical mistreatment or verbal abuse.

As for the incidents, NMP was informed that in the Home for the Elderly and without Family Care in Pristina (HEPFCP) a case was recorded between the residents (husband), the case was handled by the Kosovo police. In this case, the competent court has imposed

222 On October 20, 2023, NPM conducted a monitoring visit to HEPFCP in Pristina;

223 On October 12, 2023, NPM conducted a monitoring visit to HEPFCP in Gurrakoc;

224 Article 1 of Regulation no. 09/2008 on the Internal Work Organization for the Home for the Elderly and without Family Care.

a conditional sentence on the elderly person, in this case the husband. At the Home for the Elderly and without Family Care in Gurrakoc, there have not been any cases of incidents among the elderly. According to the managers of these institutions, the residents are manageable.

NMP during the visit to the Home for Elderly Persons without Family Care (HEPFCP) in Prishtina²²⁵ it was announced that there have been renovations regarding the improvement of accommodation conditions. The Ombudsman in the Report with recommendations for SHPMFP dated November 18, 2022, has recommended the authorities that *"Residents be supplied with adequate inventory in their rooms."* During the follow-up visit on October 20, 2023, the NMP observed that the elderly were provided with adequate inventory.

Also, during this visit, the NMP team noticed that the recommendation of the Ombudsperson²²⁶ that *"as soon as possible to make the elevator functional"*²²⁶ has been implemented and the elderly with wheelchairs can now go out into the yard.

As for the recommendation to *"Renovate the bathrooms"*²²⁷ the NPM team has noticed that apart from some technical adjustments, there has been no renovation in the bathrooms of the elderly in HEPFCP.

NMP assesses that the accommodation conditions in the Home for elderly people without family care in Gurrakoc are generally good. Psycho-social activities are organized according to the Regulation in force, where according to Article 9 of the Regulation, the program of work with dependent,

semi-dependent and independent users is organized in HEPFCP. The able-bodied users engage in work as much as is foreseen by occupational therapy programs.²²⁸

Medical services at HEPFCP in Prishtina are provided in-house by medical staff. While medical care at the Home for elderly people without family care in Gurrakoc is provided by the general physician of the HCMF, who visits them once a week.

The elderly accommodated in the Home for Elderly Persons without Family Care in Prishtina and the Home for Elderly Persons without Family Care in Gurrakoc, make contact with the outside world without any problems or obstacles. During the visits to these Houses, the NMP did not receive any complaints regarding the realization of this right.

The elderly accommodated in these Homes have the right to complain to the director of the institution as well as to the responsible authorities that manage these Homes. Also, they can submit their complaints to the Ombudsperson Institution (OIK), against the institution where they are accommodated and against the public institutions of the Republic of Kosovo.

During this year, NMP has visited three Private Homes for the Elderly, licensed by the responsible Ministry. Regarding these Houses, the Ombudsperson has published the report with recommendations Ex officio no. 598/2022. The main purpose of this report was to draw the attention of the competent authorities of the Republic of Kosovo to respect the rights of elderly people.²²⁹

225 <https://oik-rks.org/en/2022/11/24/ombudspersons-national-preventive-mechanisms-report-regarding-the-visit-conducted-to-the-home-for-elderly-people-without-family-care-in-prishtina/>

226 <https://oik-rks.org/en/2022/11/24/ombudspersons-national-preventive-mechanisms-report-regarding-the-visit-conducted-to-the-home-for-elderly-people-without-family-care-in-prishtina/>

227 <https://oik-rks.org/en/2022/11/24/ombudspersons-national-preventive-mechanisms-report-regarding-the-visit-conducted-to-the-home-for-elderly-people-without-family-care-in-prishtina/>

228 Article 11 of the Regulation no. 09/2008 on the Internal Work Organisation for the House for Elderly without Family Care

229 <https://oik-rks.org/en/2023/09/08/ombudspersons-ex-officio-report-no-5982022-concerning-the-respect-of-elderly-persons-rights-by-non-governmental-organizations-and-private-legal-entities-which-provide-social-care/>

The visits made to social care centers are reflected in the following table:

Institutions for the elderly visited during 2023	
Home for the Elderly and without Family Care in Pristina.	4
Home for the Aged in Gurrakoc.	1
Home for the Elderly "FLORA" ShPK in Istog	1
Home for the Elderly "Germania Likastro" LLC in Peja	1
Non-Governmental Organization for the Elderly "Balkan Orphans" in Suhareka	1

Human rights monitoring in the Kosovo Security Force

Based on the role and powers defined by the country's Constitution, the supervision of the Ombudsman in Kosovo also extends to the Security Sector, respectively the Ministry of Defense and the Security Force.

The protection of human rights afforded to members of the armed forces exists within a wider context of the position of the military in a democratic state. It is essential to emphasize that the Constitution of the Republic of Kosovo clearly states that *"Civil and democratic control over security institutions is guaranteed."* (Chapter XI [Security Sector], Article 125, paragraph 4).

Respect for human rights and fundamental rights for all, including armed forces personnel (within the structure and vis-à-vis others), represents a comprehensive concept of security that links peacekeeping with respect for human rights and fundamental right.²³⁰ Personnel of the armed forces have the same rights and protections as all other persons, except for certain restrictions imposed by military service.²³¹

In this sense, National Human Rights Institutions (NHRIs), which operate in compliance with the Paris Principles²³², as international standards are considered effective and credible institutions, which can exercise the supervisory role even for

sensitive and complex sectors, what are the structures of the security sector²³³. Our country has respected the best standards in the constitutional and legal order of the country when it has clothed the Institution of the Ombudsperson with attributes such as an independent constitutional institution in the exercise of its duties and that does not accept instructions or interference from other authorities in the country. which exercise power (Chapter XII [Independent Institutions], Article 132, paragraph 2).

The Ombudsperson received two complaints during the reporting year. One was deemed inadmissible, as it was in use of legal remedies, while the other complaint with 182 complainants from civilian personnel serving in the Ministry of Interior and the KSF was related to the Law on Salaries in the Public Sector. According to the claims of the complainants, this law is contrary to the principles of legal and financial security because due to the non-harmonization of this law with Law No. 06/L-158 on Amendment and Supplement to Law No. 06/L-122 for the Ministry of Defense and therefore has led to the violation of the constitutional rights of the applicants of this complaint, both in terms of protected rights and financial security, violating equality before the law and the right to property, due to the fact that civilian personnel in the ministry and KSF maintain the principle of equivalence in service with military ranks, including salaries.

This complaint, together with other complaints addressed to the OIK, was part of the contestation of the Law on Wages by the Ombudsperson in the Constitutional Court, for which the Constitutional Court issued a Judgment²³⁴.

230 Additionally, see the Code of Conduct on Politico-Military Aspects of Security, Organization for Security and Co-operation in Europe (OSCE) document) <https://www.osce.org/files/f/documents/6/a/119812.pdf>

231 Additionally, see the Compendium of Standards, Good Practices and Recommendations on Human Rights and Personnel in the Armed Forces https://www.osce.org/files/f/documents/6/5/480143_1.pdf

232 The Paris Principles were adopted by UN General Assembly Resolution 48/134 on December 20, 1993

233 Additionally, see the mapping study of Ombuds Institutions for the Armed Forces in the OSCE Region of OSCE/ODIHR, 2015 <https://www.osce.org/files/f/documents/9/8/277616.pdf>

234 <https://oik-rks.org/en/2023/04/07/press-release-the-ombudsperson-submits-to-the-constitutional-court-the-law-no-08l-196-on-salaries-in-the-public-sector-with-a-request-for-review-of-compatibility-of-the-same-with-the-constitution/>

Meanwhile, as regards the election of the Commissioner for the KSF, the Assembly of the Republic of Kosovo is in the process of finalizing the competition announced for the second time regarding this position, since in the first competition none of the selected candidates received the number of enough votes from the deputies, in the parliamentary session when the election of the Commissioner for the KSF was voted on.

The Ombudsperson has continued to express interest in making presentations²³⁵ inside the KSF barracks, related to the context of human rights in the armed forces and the specific role of the OIK in the chain of democratic control in the security sector. OIK is still waiting for MM and KSF to find the appropriate momentum within their plans for this to happen. The Ombudsperson draws attention to the mandate and powers it has within the institutional structural overview in the country and that it represents a complementary supervisory subject in the control of the Armed Forces and this should not be overlooked.²³⁶ In addition, the AP emphasizes that the Ministry of the Interior, the KSF, but also for the Parliament itself (in particular the respective parliamentary committee), should substantially consider the auxiliary and advisory role offered by the OIK²³⁷, especially given the broad and comprehensive constitutional mandate, as well as the experience created.

During this reporting year, the OIK also accepted the invitation and participated in the annual International Conference of Ombuds Institutions for the Armed Forces. (ICOAF). This year's conference, the 15th in

a row, took place in Vienna, Austria, as a joint organization of the Austrian Parliamentary Committee for the Federal Armed Forces and DCAF²³⁸.

The 15th conference, following the organization of the same, was the first dedicated to the role of Ombudsperson institutions in the governance of the impacts of climate change on the armed forces. Dealing with the security implications of climate change challenges the armed forces to reckon with a new reality that fundamentally affects their mandate and mode of operation. The corresponding implications of climate change for the armed forces are manifested in risks and vulnerabilities to the military's critical infrastructure, combat readiness and operational effectiveness, which in turn strain military resources and operational requirements. The actors of the security sector are seen as potential factors to prevent, mitigate and solve environmental security crises, as they can influence the complication of their negative effects.

ICOAF already represents an important international forum to promote and strengthen the democratic oversight of the armed forces, with participants who jointly share the same aspirations to promote the exchange of good practices, as well as the increase of cooperation between Ombudsperson institutions. The 16th conference is expected to be held in the fall of 2024, in Berlin, Germany.

In fulfillment of the mandate that it also has as an equality mechanism, the OIK has responded to invitations from the KKSS

235 In October 2022, the OI made a presentation for officers and officials of the Ministry of Defense, as a continuation of the meeting held in May of the same year with the minister of the Ministry of Defense.

236 EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) REPORT ON THE DEMOCRATIC CONTROL OF THE ARMED FORCES Adopted by the Venice Commission at its 74th Plenary Session (Venice, 14-15 March 2008), pg. 7, paragraph 31 dhe paragraph 32 [https://www.venice.coe.int/webforms/documents/CDL-AD\(2008\)004.aspx](https://www.venice.coe.int/webforms/documents/CDL-AD(2008)004.aspx)

237 Ibid, p. 7, paragraph 27 and paragraph 32

238 DCAF - Geneva Centre for Security Sector Governance) is an organization known for expertise in foreign, security and peace policy. based in Switzerland, governed by a Foundation Council of 63 countries. DCAF is internationally recognized as a leader in Security Sector Governance (SSG) and Security Sector Reform (SSR) [shthttps://www.dcaf.ch/sites/default/files/imce/About-Dcaf/DCAF_Flyer_June2020_WEB_FINAL.pdf](https://www.dcaf.ch/sites/default/files/imce/About-Dcaf/DCAF_Flyer_June2020_WEB_FINAL.pdf)

(Kosovar Center for the Security Sector), by participating in the round table for the launch of the Policy Document for the Agency and the Working Environment for Women in the Security Sector Security²³⁹; has also offered the contribution from the perspective of the competences it exercises and the mandate it represents for a study regarding the inclusion of women in the security sector, challenges and opportunities, and their role in this sector and as a continuation of the latter was part of panel that focused on the evaluation of the gender perspective within the Kosovo Security Force, at the Conference on Gender Issues, Peace and Security, with a primary focus on gender integration in the security sector in Kosovo.²⁴⁰

239 Round table, organized by KKSS, on June 26, 2023, Hotel Swiss Diamond

240 KKSS, Conference on Gender Issues, Peace and Security, with a primary focus on Gender Integration in the security sector in Kosovo, held on December 19, 2023, Hotel Emerald, Prishtina

The rights of persons in the sense of "transitional justice"

Transitional justice is a field of justice that deals with all the measures that each society in transition has an obligation to undertake in the post-conflict stabilization period to seek accountability and address the consequences caused by the war and violations of human rights and freedoms. Transitional Justice, through its four main mechanisms, such as the right to justice, the right to know, the right to reparation, and the guarantee of non-repetition, aims to help a post-conflict society to ensure justice for victims and recognition theirs, increase citizens' trust in state institutions, ensure respect for human rights, promote the rule of law and through these measures prevent massive violations of human rights in the future and promote reconciliation.

The right to justice includes the right of victims to obtain justice through a fair and effective remedy. The right to justice also obliges states to investigate violations and prosecute those responsible for human rights violations and take punitive action if found guilty.

The right to know includes the rights of victims and their families to learn the truth about what happened to them personally or their family members and loved ones. This right is based on the inalienable right of society to know what circumstances resulted in the commission of crimes and violations in order to prevent their repetition in the future. Furthermore, this right provides an obligation on the state to take measures, such as

securing archives and other evidence, preserving and maintaining collective memory.

The right to reparation includes measures that the state is obliged to apply to victims, their families and communities in order to contribute to a form of symbolic recognition of their sense of loss, which is necessary as part of healing from the trauma of war. and to provide justice and compensation for the losses that have been caused.

The right to guarantees of non-repetition implies the State's obligation to ensure good governance and the rule of law so as to ensure that crimes that have occurred in the past are not repeated. Institutional reforms represent the process of reviewing and restructuring state institutions so that they respect human rights, preserve the rule of law and be accountable to the public.

In the Republic of Kosovo, as a result of the war, many victims and material damages have been caused, therefore Transitional Justice mechanisms are necessary in order to address the victims' needs for justice, recognition and acceptance, compensation for their non-material losses and material as well as undertaking legal and other actions in order to guarantee non-repetition.

In order to analyze and evaluate how far the state and the competent institutions of the Republic of Kosovo have managed to fulfill the mechanisms of Transitional Justice, such as: the obligations of the state towards the victims in providing justice for crimes committed against them; the obligations of the state towards the victims when it comes to the collection and documentation of facts on war crimes; the state's obligations to fulfill its obligations for providing material reparations to the victims and the right to non-repetition, the Ombudsperson during the reporting year has published Ex officio Report no. 422/2021 regarding Transitional Justice and the implementation of its mechanisms²⁴¹.

241 <https://oik-rks.org/2023/06/05/rraporti-i-avokatit-te-popullit-ex-officio-nr-4222021-drejtesia-tranzicionale-dhe-zbatimi-i-mekанизmave-te-saj/>

The report aimed to identify all the initiatives, whether institutional or civil society, in the field of Transitional Justice and to analyze the implementation of these initiatives and based on the analysis to assess whether the state institutions have done enough and fulfilled their obligation to realize human rights for their massive violations during the war in Kosovo.

Based on the research undertaken, it can be concluded that the state of Kosovo has undertaken legal and institutional initiatives to implement the mechanisms of Transitional Justice, but these initiatives have not always been in harmony or coordination with each other and how such have not given the desired results. Transitional Justice and efforts to deal with the past, in the Republic of Kosovo, have been developed without a comprehensive strategy. Dealing with the past has mainly been done in specific sectors through initiatives and institutional and legal ways to deal separately with different issues related to the conflict.

With this report, the Ombudsperson has concluded that the institutions have not fulfilled their obligations towards the victims in providing justice for war crimes against humanity, with the dimensions of genocide, that were committed during the war in Kosovo. Also, the Ombudsperson has concluded that the state has not fulfilled its obligations towards the victims when it comes to collecting and documenting facts on war crimes. On the other hand, it is estimated that Kosovo, to a large extent, has fulfilled its obligations in providing material reparations to the victims and undertaking institutional reforms, in order to guarantee non-repetition. Legal and institutional initiatives have also been undertaken to implement the mechanisms of Transitional Justice, but these initiatives, not always being in harmony and coordination with each other, as such, have not given the desired results.

The report of the Ombudsperson for Transitional Justice and the implementation of its mechanisms, has analyzed the actions

of the competent institutions of the Republic of Kosovo regarding the fulfillment of the obligations arising from the Constitution of the Republic of Kosovo, from the laws in force and from the international instruments, as far as it concerns the provision of justice for the victims of war crimes. The report offers recommendations for new policies and initiatives, as well as recommendations for improving the functioning of existing initiatives in the field of Transitional Justice, which have been addressed to the responsible authorities in the Republic of Kosovo. The implementation of these recommendations will affect the improvement of the situation in terms of the realization of the victims' rights to justice and reparation, as well as the right to know and the guarantee of non-repetition.

Cases initiated in the Constitutional Court

The Ombudsperson, based on the Constitution of the Republic of Kosovo, is a party authorized to initiate cases of compatibility of laws, decrees of the President and Prime Minister and Government regulations with the Constitution.²⁴²

In December 2022, the Assembly of the Republic of Kosovo approved Law no. 08/L-196 on Salaries in the Public Sector. This law entered into force in February 2023. After the entry into force of this law, the Ombudsperson received 104 complaints from various public sector entities. From the reviewed complaints and the information provided, it was found that there was a reduction in wages, inadequate and unequal treatment between the positions defined in the law. Also, from the analysis of the law, it was found that it does not carry the spirit of the Constitutional Court's Judgment KO219/19, this in terms of the principle of separation of powers, control and balance between them, preservation of the independence of independent constitutional institutions, the rule of law and the principle of equality. Therefore, on April 7, 2023, the Ombudsperson submitted a request to the Constitutional Court for the assessment of the compatibility of Law no. 08/L-196 on Salaries in the Public Sector, with the Constitution.

In December 2023, the Constitutional Court published the announcement about the decision on the above-mentioned law, with which it had decided that a number of articles of this law are not in accordance with the Constitution of the Republic of Kosovo,

and had obliged the Assembly that within six (6) months to eliminate the remarks given by the Constitutional Court.

The Ombudsperson forwarded to the Constitutional Court some opinions with comments regarding some laws that were initiated by other authorized parties. In this direction, during the reporting year, the Ombudsperson forwarded opinions to the Constitutional Court, giving comments regarding Law no. 08/L-197 for Public Officials, the Law on the State Bureau for the Verification and Confiscation of Unjustified Assets, the Law on Amending and Supplementing the Laws Related to the Minimum Wage in the Republic of Kosovo, the Law on the Code of Criminal Procedure in the Republic of Kosovo.

Regarding this issue, the Constitutional Court during the reporting year has decided only on the Law on Public Officials, considering some articles of this law in disagreement with the Constitution, and obliging the Assembly to amend the articles mentioned in Judgment KO 216/22 and KO 220/22, published on September 13, 2023²⁴³.

242 Constitution of the Republic of Kosovo, article 113 [Jurisdiction and authorized parties], paragraph 2.

243 Constitutional Court, Judgment KO216/22 and KO220/22 - <https://gjk-ks.org/decision/vleresim-i-kushtetutshmerise-se-neneve-9-12-46-dhe-99-te-ligjit-nr-08-l-197-per-zyrtaret-publike/>

Supervision of legislation in accordance with human rights and international standards

The Ombudsperson, in order to practice his mandate, during the reporting year has followed the legislative process by the Institutions of the Republic of Kosovo.

In this regard, the Ombudsperson has noted that the Government of the Republic of Kosovo in the legislative program for the year 2023, has planned the drafting of draft laws and the deadlines for their submission to the Assembly of the Republic of Kosovo. In this regard, according to the legislative program for the year 2023, the Government of the Republic of Kosovo has planned to approve and forward for consideration and approval to the Assembly of the Republic of Kosovo, 100 draft laws.²⁴⁴

As for the activity of the Assembly of the Republic of Kosovo in terms of the adoption of laws, the Ombudsperson noted that the Assembly of the Republic of Kosovo, during the reporting year, approved 70 laws, while 11 draft laws remained in the procedure after approval in the first review.²⁴⁵

Law no. 08/L-121 for the State Bureau for the Verification and Confiscation of Unjustifiable Assets has been referred to the Constitutional Court, for evaluation of its compatibility with the Constitution. Regarding this law, the Ombudsperson has sent his comments and opinion to the Court.

The Ombudsperson has noticed the practice of amending and supplementing the amended law with two other laws, as is the case with Law no. 06/L-005, which was amended and supplemented by two laws, Law no. 08/L-176 and Law no. 08/L-224. Such a practice misleads the users of the laws, who may have difficulties in identifying the provisions and referring to the relevant laws.

Even Law no. 08/L-142 on the Amendment and Completion of the laws that determine the amount of the minimum wage benefit, the procedures for determining the minimum wage and the tax scales in the annual personal income, has been referred to the Constitutional Court. The Ombudsperson has given his comments on the evaluation of the provisions of the law highlighted above, in terms of its compatibility with the Constitution of the Republic of Kosovo, taking into account the fact that with Law no. 08/L-142, the laws regulating the social aspects of paraplegic and tetraplegic persons, blind persons and KLA veterans have been amended, it has been estimated that the amendment of the basic laws in the direction of removing the pension or income base others in the minimum wage, as well as the removal of the minimum threshold for the income of certain categories of persons (blind persons), may result in the violation of the legal security of categories of persons whose rights are regulated by the specified laws above.

Law no. 08/L-248 on Amendment and Supplement to Law no. 04/L-131 for Pension Schemes Financed by the State, according to the opinion of the Ombudsman, it is not in the spirit of the Judgment KO 190/19 and that the Assembly of Kosovo has not taken into account all the requests of the Constitutional Court given by the Judgment KO 190/19 regarding the limitation of contribution-paying seniority of 15 years. The Ombudsperson

244 The Legislative Program for 2023, approved at the 121st meeting of the Government of the Republic of Kosovo, with decision no. 02/121, dated 25. 01. 2023.

245 Assembly of the Republic of Kosovo, Evidence of Laws - https://www.kuvendikosoves.org/Uploads/Data/Documents/Evidencaeligjeve_X6gD6q8fAV.pdf

considers that despite the recognition of work experience for the period 1989 - 1999, the establishment of the contribution-paying experience criterion of 15 years continues to deny the realization of the right to citizens who have paid contributions, but who do not reach the 15-year criterion. In this way, they are denied equal treatment before the law, as defined in the Judgment of the Constitutional Court.


During the reporting year, the Ombudsman published Report Ex Off 521/2022, regarding the legal basis of the re-evaluation by the Commission for the evaluation and determination of procedures for recognizing the status and rights of paraplegic and tetraplegic persons. In this case, the Ombudsperson has recommended the initiation of procedures for the amendment and completion of Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons, in such a way that: The law defines the grouping of paraplegic and tetraplegic persons and defines the groups of beneficiaries of this law; To determine that the Evaluation Commission cannot re-evaluate paraplegic and tetraplegic persons who have been recognized as persons of the first group; as well as Re-evaluation of paraplegic and tetraplegic persons of the second group should be done only in certain cases, when the nature of the disease is developing rapidly and as a result there is a deterioration of the health condition.

During the reporting year, the Ombudsperson dealt with the issue of the suspension of municipal services due to non-payment of real estate tax. Regarding this case, the Ombudsman on August 1, 2023, published a Report²⁴⁶ on the Amendment and Supplement to Law no. 06/L-005 on Real Estate Tax, and has recommended the Ministry of Finance, Labor and Transfers to undertake the legislative initiative to amend and supplement Law no. 06/L-005 on Real Estate Tax, so that Article 29 of this law is removed in its entirety. Regarding this issue,

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the Ombudsperson noted that the Assembly of the Republic of Kosovo approved Law no. 08/L-176 on the Amendment and Supplementation of Laws containing special administrative procedures and their harmonization with Law no. 05/L-031 for the General Administrative Procedure, through which, in Article 111, Article 29 of Law no. 06/L-005 on Real Estate Tax.

In relation to this issue, the Ombudsperson has noted that the law in question was approved in an accelerated procedure, making it impossible for interest groups to give comments about the content of this law, and thus making it impossible for this process to be transparent. In this regard, the Ombudsperson has noted that the new law, like the repealed law, contains the provision of the gender quota (Article 28), which indirectly puts women and men in a position of inequality before the law. Regarding this issue, the Ombudsman will act within the deadlines to refer this law to the Constitutional Court, for the evaluation of the compatibility of this law with the Constitution of the Republic of Kosovo.

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**The positions of
the Ombudsperson
expressed through
reports on cases
investigated during
2023**

The positions of the Ombudsperson expressed through reports on cases investigated during 2023

Human Dignity and Equality before the Law

Ex officio report no. 479/2022, assessment of accessibility for persons with disabilities based on Administrative Instruction no. 33/2007 on the Technical Conditions of Building Facilities for the Access of Persons with Disabilities in the municipalities of the Republic of Kosovo

The purpose of the report is to assess the situation in the municipalities of the Republic of Kosovo regarding physical access for persons with disabilities in public facilities and spaces, according to the criteria defined in Administrative Instruction no. 33/2007 on Technical Conditions of Building Facilities for Access of Persons with Disabilities. The report draws the attention of the municipalities of the Republic of Kosovo for undertaking concrete actions by ensuring unhindered access to movement, residence and work for persons with disabilities, as well as suitable conditions for access to facilities and public spaces.

The Ombudsperson considers that it is the responsibility of municipalities and local self-government to pay attention to the legal acts related to construction issues, making sure that the facilities are in accordance with construction standards, making sure that maintain places and other public spaces, with the aim of creating equal opportunities for the movement of all persons. Municipalities have exclusive and full competence to undertake actions in order to remove all obstacles that prevent access to facilities and public spaces for persons with disabilities, by making a detailed identification and study of such public spaces in advance. These requirements are also defined in the Law on Construction, in which the legal framework is defined, which regulates the issuance of construction permits, compliance with the requirements of the construction permit and the issuance of the certificate of use within the territory of the Republic of Kosovo. On this occasion, the Ombudsperson recommended the municipalities to implement the Administrative Instruction on the Technical Conditions of Building Facilities for the Access of Persons with Disabilities in the municipalities of the Republic of Kosovo.

Ex officio report no. 648/2021, access to sidewalks, public spaces and free movement of citizens as well as respect for the right to a safe and healthy living environment

The report is the result of research carried out on the degree of accessibility of sidewalks and other public surfaces in Prishtina, Prizren and Ferizaj, carried out in the period November-December 2022. The focus of the research is the assessment of the respect of citizens' right to a safe environment and healthy, as well as the assessment of the infrastructure against the needs for physical access to public environments of citizens, especially of persons with physical and visual disabilities. The research aims to highlight architectural barriers - physical obstacles, which significantly affect the restriction of free movement and the use of urban environments by persons with disabilities, the elderly, parents with small children, or anyone

else who at certain times there may be difficulties in accessing the environment.

One of the fundamental components of movement for citizens in urban spaces are sidewalks - pedestrian streets. They are part of public spaces in cities, which, in addition to creating surfaces suitable for walking, they must provide safety to pedestrians from automobile traffic. Sidewalks should be spaces where the democratic principles of a city are manifested, enabling all citizens, without distinction, equal, independent access and free movement.

In order to highlight the architectural barriers, the degree of encroachment and the types of obstacles in sidewalks/spaces dedicated to pedestrian movement, which hinder the movement of persons with disabilities, in many cases, also of other citizens, this report puts we use a methodology that combines methods of research and identification of obstacles in the field, as well as the examination of the design norms that are presented in some administrative instructions and regulations within the framework of the laws in force.

The method used to identify obstacles on the sidewalks of Prishtina, Prizren and Ferizaj, in this research was done by filling in the forms designed specifically for this research, based on Administrative Instruction 33/2007 for Technical Conditions of Construction Facilities for Access of Persons with Disabilities.

The results of the field research highlight a series of problems that produce architectural barriers, especially creating restrictions for Persons with Disabilities and other citizens affected by environmental access barriers. According to the research, in the group of problems identified on the sidewalks, in all three cities, the lack of tactile elements (87.3%) that would serve blind people for unassisted/independent movement in the city leads. This is followed by the presence of physical obstacles in the space of the sidewalks, which hinder the movement of Persons with Disabilities (62.4%). During the research in the field, various physical obstacles were encountered, which block, usurp, occupy, narrow, raise the level of the pavement surface, etc., which make it difficult and in some places prevent the independent movement not only of people who use wheelchairs and other means auxiliary, but also of other citizens in general. The lack of access ramps in some cases complicates the situation of overcoming the dislevels that may appear, either due to natural slopes or physical obstacles imposed by public works or by arbitrary interventions of natural persons.

Another evidenced aspect, which limits physical movement on the sidewalks, is damage to the materialization of the sidewalks (31.3%). Often substandard public works result in pavement surfaces that collapse, crack or shift, creating potholes and ditches that hinder and sometimes endanger pedestrians. Damaged materialization is often also a consequence of the interventions of public service companies in cases of interventions and avoidance of various problems in the infrastructure, but also from uncontrolled arbitrary interventions of natural persons. The interventions after these interventions generally do not completely repair the spaces, but usually there are patches made in a non-qualitative and unprofessional manner, which over time degrade into pits and seriously hinder the movement of pedestrians. Also, another and no less important obstacle is the lack of parking spaces dedicated to persons with disabilities, or their construction contrary to the standards and technical norms defined by the legislation in force.

Sidewalks on city streets are publicly owned surfaces, managed by municipalities, and any irregularity caused²⁴⁷ by non-implementation of the technical rules defined by the legislation in force can be assessed as a failure to fulfill the state's positive obligations for the protection

247 Obstacles: Barriers, insufficient spaces, narrowings, encroachments by citizens or hotel premises, damages created by public service companies and constructions, etc.

and provision of a safe and accessible environment for citizens. The treatment of these problems and the elimination of physical barriers that prevent the free movement of citizens is the responsibility of the municipal departments, such as: Public Services, Inspection and the Department of Urbanism.

Ex officio report no. 989/2019, unequal treatment of citizens over the age of 65 in the provision of health insurance by insurance companies in Kosovo

The purpose of this report is to determine whether the refusal to provide individual health insurance services to persons over 65 years of age by insurance companies in Kosovo constitutes discrimination and whether this leads to unequal treatment of these persons when exercising their right to them for complementary health care; and enable all persons in Kosovo to enjoy the highest possible standard of health care, without limitations related to their age.

Investigations began based on information received through the media which reported that insurance companies in Kosovo do not offer voluntary health insurance services to interested citizens who are over 65 years old. In addition, the institution also received 5 individual complaints regarding these concerns.

According to the received information, none of the insurance companies operating in Kosovo offers health insurance services for people over the age of 65, and these requests are rejected a priori only for this fact, while for this category of citizens health insurance is offered for individual trips abroad. A comparative analysis shows that in the countries of the European Union and surrounding countries, voluntary health insurance options are available for people over 65 and some companies have specially created health insurance packages for the elderly.²⁴⁸ However, in Kosovo, the mere fact that a person is over 65 years old leads to the rejection of their requests for voluntary health insurance by insurance companies, without an individual risk assessment in each individual case. As a result, these people are deprived of the possibility of voluntary health insurance.

By implementing this practice, insurance companies directly discriminate against citizens based on a direct criterion - age, as a personal characteristic, because by denying them the right to use the voluntary health insurance service, in a comparable situation, it establishes a group of citizens at a disadvantage compared to other people who do not have this personal quality.

Through this report, the Ombudsperson does not dispute the right of insurance companies to create their business policy and strategy, as well as their discretionary right to decide on: general and special conditions and types of voluntary health insurance, the general provisions for insurance premiums, for risks covered by insurance, in accordance with the special conditions and other important conditions for the provision of voluntary health insurance services in accordance with the Law on Insurance. All the mentioned criteria can affect the conditions under which a person will be offered to conclude a voluntary health insurance contract, but cannot be a factor that excludes the provision of insurance services to a certain group of people.

Insurance companies with the practice of denying voluntary health insurance to people over 65 are committing an act of direct discrimination on the basis of personal characteristics -

²⁴⁸ For example, the Cigna Global Health Insurance company offers a special health insurance package for people over 60, the so-called Cigna International 60+Care, in: https://www.cignaglobal.com/individuals-families/international-health-insurance/retirees?utm_source=google&utm_medium=cpc&utm_campaign=rep-paid-b-global-en-prospect-text-a

age, thus violating the provisions of Article 24 of the Constitution of the Republic of Kosovo as well as the provisions of Law 05/L-021 on Protection from Discrimination, defined in article 1.1, in article 2, paragraph 1, points 1.3, 1.10 and 1.16, in article 3, as well as in article 4.1.1 . For this, he recommended the Central Bank of Kosovo to harmonize the conditions for the provision of voluntary health insurance services for all citizens in the Republic of Kosovo, determining the possibility of voluntary health insurance for persons over the age of 65, in accordance with legal provisions from the field of anti-discrimination legislation.

Ex officio report no. 453/2018, the lack of suitable housing conditions for the Roma, Ashkali and Egyptian community returned from North Macedonia in the municipality of Obiliq

The report aims to draw the attention of the local and central governments to the need to take action in order to create dignified and suitable living conditions for the inhabitants of the village of Plemetin, mainly families of the Roma, Ashkali and Egyptian communities displaced from the last war, and returned to Kosovo years ago from North Macedonia.

The process of returning displaced persons has a complex dimension in itself and the handling of this issue can also be complex due to the fact that the problems have been layered for years, there can be discussions about the process and method of return, the concentration of returnees in a certain space, the lack of property, the returnees who have never before been residents of that locality, the reaction and way of acceptance of the returnees by the host community, the lack of registration in civil status registers, etc. However, no matter how complex the treatment of this issue may be, it should not be taken as a reason not to take concrete actions by local and central authorities to change this situation, which is considered not at all dignified by these residents.

This report, through an analysis of the current situation, actions of the authorities so far and legal analysis, aims to address the need to take actions to change this situation not only through the implementation of special housing programs but also addressing other issues of interest to these communities.

Ex officio report no. 598/2022, respecting the rights of elderly persons, by non-governmental organizations and private legal entities, which provide social care services for elderly persons

Investigations into this case have started according to the official duty based on the information of the "KOHA" portal²⁴⁹, that in the private legal entity in Peja which provides social services for the elderly, a video has been published where the personnel of this entity can be seen mistreating an elderly, which was located in this house. The report aims to draw the attention of the competent authorities of the Republic of Kosovo to the respect of the rights of elderly persons located in the homes of non-governmental organizations and in legal entities that provide social services for elderly persons, rights that are guaranteed by the Constitution of the Republic of Kosovo, with the relevant legislation in force, as well as with international standards for the protection of human rights.

In this regard, the Ombudsperson publishes a statement for the media through which he expressed his concern about the images presented on social networks about the mistreatment of an elderly woman in a Home for the Elderly in Peja. The lawyer emphasized that these

²⁴⁹ <https://www.koha.net/kronike-e-zeze/350795/ne-nje-shtepi-te-pleqve-ne-peje-ushtrohet-dhune-ndaj-te-moshuares/>

behaviors are unacceptable, they seriously violate human dignity and integrity. These actions are prohibited under the legislation in Kosovo, as well as under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment, which are applicable in Kosovo.

Representatives of the Ombudsperson also visited the three legal entities licensed for the provision of housing and services for the elderly, during which group and individual interviews were conducted with the elderly and with the staff. Visit to the "FLORA" Nursing Home, Visit to Home for the Elderly "Germania Likastro" Visit to the Home for the Elderly "Orphans of the Balkans". Of the elderly residents in these homes, they did not report any complaints of physical or mental abuse.

Through this report, the Ombudsperson recommended to the Ministry of Justice that with the amendment and completion of the Law on Social and Family Services, all local and international legal guarantees for respecting the rights of elderly persons should be included; to create a database for the identification of elderly persons under social care by legal entities and by non-governmental organizations that provide social services; non-governmental organizations and legal entities that provide social services for the elderly should employ (engage) social workers and psychologists as part of their staff; to strengthen the Unit for Monitoring and Inspection of Social Services, through increasing the capacities of the staff, which enables regular monitoring in institutions of social care for the elderly; to organize adequate training for social care workers for the treatment of elderly persons; The General Council of Social and Family Services to be effective and functional in its legal responsibilities; The Ministry of Justice should undertake all measures to ensure that public and private institutions, which provide social services, meet all standards and criteria for the dignified and non-discriminatory treatment of all elderly persons in social care.

Ex officio report no. 521/2022, re-evaluation by the Commission for the evaluation and determination of procedures for recognizing the status and rights of paraplegic and tetraplegic persons

The report aims to draw the attention of the Ministry of Finance, Labor and Transfers to the issues related to the legal basis of the re-evaluation of disability by the Commission for the evaluation and determination of the procedures for recognizing the status of paraplegic and tetraplegic persons according to the Law no. 05/L-067 on the status and rights of paraplegic and tetraplegic persons. The report places emphasis on the legal basis of the re-evaluation by the Commission for the evaluation and determination of the procedures for recognizing the status of paraplegic and tetraplegic persons, based on Regulation (QRK) no. 07/2017 on the composition, operation, responsibilities of the evaluation Commission and determination of the procedures for recognition of the statute and rights of paraplegic and tetraplegic persons.

Through this report, the Ombudsperson assesses that the dignity of this category is violated due to the practical difficulties they have to present themselves before the Evaluation Commission, especially since the Regulation did not expressly foresee the obligation for the Evaluation Commission to visit these persons in their residences. Access to public spaces and facilities for people with disabilities is generally extremely difficult, while for paraplegic and tetraplegic people the situation is even more serious, and the lack of access represents a violation in itself. The main burden for the behavior of paraplegic and tetraplegic persons is carried by the family members who are obliged to find ways to bring these persons before the commission, so that the Commission re-evaluates the degree of disability. The Ombudsperson

considers that the possible omissions of the Evaluation Commission in the case of the initial evaluation must not go to the detriment of the dignity of paraplegic and tetraplegic persons.

The Ombudsperson would like to point out that when it comes to the benefits recognized by law, the fact must be taken into account that as long as there is a recognized degree of disability, the recognized benefits and rights cannot be limited or reduced even by changing the the law itself.

Through this report, the Ombudsperson recommended to the Ministry of Finance, Labor and Transfers to complete and amend the Regulation (QRK) No. 07/2017 on the Composition, Functioning, Responsibilities of the Evaluation Commission and Determination of Procedures for Recognition of the Status and Rights of Paraplegic and Tetraplegic Persons, in order to amend Article 5, paragraph 1, sub-paragraph 1.4 in such a way that the group of second of paraplegic and tetraplegic persons to be defined in accordance with Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons, highlighting the fact that the condition of persons of the second group is a permanent condition but to a lesser degree compared to the persons of the first group; to completely delete paragraph 1 of article 9 which determines the reassessment of paraplegic and tetraplegic persons of the first group every five years, and which determines that for the beneficiaries of the second group who do not have permanent and complete consequences with incontinence, complete loss of the sensitivity of the extremities and in order to prevent decubitus reassessment in accordance with Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons. It was also recommended to initiate procedures for the amendment and completion of Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons.

Ex officio report no. 227/2019, language inconsistencies in legal acts and their impact on the realization of human rights

During our daily work, we have come across non-identical language versions in a relatively large number of legal and by-laws, even the Constitution itself in the official language versions - Albanian and Serbian. For this, the Ombudsperson decided to start ex officio investigations to assess the quality of the translation of legal acts and their linguistic inconsistency, especially in the Serbian language, and the impact of this situation on the fulfillment of key international human rights standards. which guarantee linguistic rights, which are part of the Constitution of Kosovo, Law no. 02/L-37 on the Use of Languages and by-laws in implementation of this law.

The Ombudsperson notes that a number of legal acts contain differences between the Albanian and Serbian language versions. These differences include content, terminological, grammatical, spelling and typographical errors, which include completely or partially inappropriate translation of words from Albanian to Serbian, omission of parts of the translation, as well as addition of parts of sentences that do not exist in the original text.

The Ombudsperson draws attention that some of the possible consequences that must be taken into account are misinterpretation, legal uncertainty, legal disputes and access to justice. If different language versions of the same law have different wording, this can lead to confusion or misinterpretation of the law by the individual. If different language versions of the same law have provisions with different content, this may affect the legal security of individuals and the rule of law.

In the context of the realization of the rule of law, the European Commission notes that legal acts must produce the same legal effect, therefore it emphasizes that every law, once

interpreted, must convey the same absolute meaning, in order to produce the same effects. , regardless of the linguistic background of the person who was attacked by the same.²⁵⁰ Therefore, it is necessary during the process of drafting laws to take measures to harmonize legal acts and ensure the reliability of multilingual legislation before their publication in the Official Gazette.

As a positive step towards solving the identified problem, the Ombudsperson points out that the Government has approved Draft Law no. 06/L-030 on Legal Acts, which has been accepted in the Assembly of Kosovo and has been examined in principle by the functional committee of the Assembly, but the same is still in the examination procedure. The importance of the adoption of this law in the context of the case under consideration is reflected in the fact that, in addition to defining the types and hierarchy of legal acts, it also defines the principles and standards for drafting, issuing, approving, consolidating, publishing and implementing legal acts, the same also provides for and defines the correction of legal acts, as well as the way in which the correction of legal acts is carried out in case of identification of linguistic errors, spelling, calculation, technical errors, other similar, obvious inaccuracies, or in case of inconsistency between official languages in the legal act.

For this reason, the Ombudsperson recommends the Assembly of the Republic of Kosovo to adopt the Law on Legal Acts as soon as possible and thereby provide the legal basis for the harmonization and correction of linguistic or technical errors in legal acts in case of inconsistencies between official languages. Whereas, the Government of the Republic of Kosovo to undertake the necessary measures that will ensure the harmonization of legislation and the correction of essential linguistic, terminological, grammatical and spelling errors, either in the existing language versions of the laws, or those in the drafting process, with in which case the full reliability of the different language versions of the law will be achieved.

Prohibition of Torture, Cruel, Inhuman or Degrading Treatment

Report of the National Mechanism for the Prevention of Torture for the visit to the psychiatric clinic of the University Clinical Center of Kosovo - psychiatric emergency and intensive care

The National Mechanism for the Prevention of Torture of the Ombudsperson (NMP) visited the Psychiatric Emergency and Intensive Care Department (hereafter UKIP).

The purpose of this visit was to assess the respect for the basic rights of persons with mental problems, hospitalized in the closed ward of the Psychiatric Clinic, for involuntary treatment, who were brought by the police or family members for treatment. During the visit, the staff of the Psychiatric Clinic offered full cooperation to the monitoring team. The team was given access to the spaces of the Psychiatric Clinic, to the UKIP Ward, and they were allowed to talk with patients without the presence of medical personnel.

The Psychiatric Clinic does not have a ward for the treatment of the elderly, children and adolescents. Patients aged 16-65 are treated in the aforementioned wards. However, the placement of minors and the elderly is an almost permanent practice and in a way forced, because there are no beds for minors in Child and Adolescent Psychiatry, and the elderly also have no other hospitalization spaces. According to the announcement of the director of the Psychiatry Clinic, through a project from the Ministry of Economic Development, the psychiatric service for children and adolescents is expected to be supplied with beds in the future.

²⁵⁰ European Commission, Legislation in the EU's Multilingual Environment, 2010.

The Psychiatric Emergency and Intensive Care Department (UKIP) is a closed unit and functions within the Psychiatric Clinic. In this ward, cases of various psychotic disorders, bipolar disorders and personality disorders that cannot be treated in other open wards are treated. This ward is the only one in the entire territory of Kosovo. In other regional hospitals, psychiatric wards do not have functional special rooms where emergency cases are treated. Such cases from all over the country are brought to the UKIP Department of the Psychiatric Clinic in Pristina.

Despite the recommendations given by the earlier visits and the operationalization of these special rooms for the treatment of emergency cases, however, the situation remains the same and this recommendation has not yet been implemented. During the realization of ad hoc visits and general visits, the monitoring team of the NMP did not observe any circumstances that could express the suspicion of mistreatment or humiliation of the persons placed in this department. Likewise, the NMP has not received any complaints from patients about physical abuse or behavior of the staff, which would offend the patient's dignity.

From the findings of the previous visits, it was established that the competent court was never notified of the patient's acceptance for involuntary treatment. Moreover, this situation has continued for years and, in addition to the Ombudsperson, this concern was also raised by the European Committee for the Prevention of Torture (CPT), in the report on the visit to Kosovo in 2007, 2010, 2015 and most recently in the report on the visit to Kosovo, published in September 2021.

During the visits in September 2022 and March 2023, the NMP was informed that the director of the Psychiatric Clinic tried to find a solution to this issue by sending about 25 patient files to the Basic Court in Pristina, to notified for involuntary treatment, but according to the director's statements, the Basic Court in Pristina is delaying the answers, even though it is notified that in the Psychiatric Emergency, the patient cannot stay for more than 3 weeks and needs to be treated as soon as possible.

The NMP considers that renovations should be made in the UKIP Department of the Psychiatric Clinic as soon as possible, so that patients can be provided with accommodation in accordance with international and national standards for the accommodation of patients of this category.

During the visits to this ward, it was observed that the main treatment is with medication and that the psycho-social activities were not sufficient, the multidisciplinary team was missing, such as: psychologist, social worker, occupational therapist and the individual treatment plan was missing. The NMP considers that the authorities and institutions must ensure the necessary variety of psycho-social professionals, as a prerequisite for an adequate treatment of patients.

The NMP considers that as long as the ward uses the measure of isolation, this means of restraint should be subject to a detailed policy for patients who are placed in isolation rooms, which should contain information about the situations when isolation can be used, the objectives the intended purpose, the duration and the need for regular review of the isolation decision, the existence of real human contacts, the need for the personnel to be particularly vigilant.

Also, it has been observed that the department does not have a special register for people who are placed in isolation, therefore the NMP concludes that the recommendation to create such a register, which was sent to the competent authorities through the report published last

year, has not yet been implemented. before. With this report, the Advocate recommends to the Ministry of Health and HUCSK that: Increase capacities and increase beds in Child and Adolescent Psychiatry; To create a special institute or center for the treatment of addiction diseases, where this category of patients can be treated and rehabilitated; Act and take urgent measures to engage social workers in the Psychiatry Clinic; To organize trainings for the security personnel, with the aim of training and raising the professional capacities in the treatment and care of the persons treated in the Clinic; Psychiatric wards in other regional hospitals should activate special rooms for the treatment of emergency cases (repeated recommendation); To issue and approve by-laws, so that the Law on Mental Health is applicable; To adjust the conditions in the UKIP Ward, to eliminate humidity in the ward, to make the women's bathroom functional, as well as the isolation rooms to be fixed and ventilated; To create individual treatment plans for patients hospitalized in the Psychiatric Clinic, where the patient's consent for treatment and hospitalization should be mentioned in those plans, as well as paying attention to psycho-social activities; Create a specific protocol for the use of restraints for psychiatric institutions, as required by Article 27 of the Law on Mental Health.

Meanwhile, he recommended to the Ministry of Justice to take concrete measures to amend the legal provisions of Law no. 03/L-007 for the Uncontested Procedure, Chapter 3 (Placement and maintenance of the mentally ill in the health institution), provisions from Article 75 to Article 96, harmonizing them with the provisions of Law No. 05/L-025 on Mental Health (articles 20 to 24), related to procedures and deadlines and to create a clear legal framework related to the procedures and deadlines for detention in the involuntary treatment of civil cases.

Report of the National Mechanism for the Prevention of Torture on the conditions of accommodation of prisoners in wing D of the Detention Center in Prizren

The purpose of the report is to assess complaints regarding accommodation conditions and investigate allegations that institutions have not taken sufficient measures to ensure the health and well-being of prisoners as required by applicable laws in the Republic of Kosovo and international standards for the protection of the rights of persons deprived of their liberty. The claims of the prisoners are that the ventilation in the rooms does not work at all, the mattresses are old and smell of mold, the boiler is not functional as there is no hot water. They also claim that they work twelve hours and are paid only twenty-six euros, they only have phone calls three times a week, and they do not have benefits and privileges like other convicts in other correctional centers.

The NMP team during this visit, but also in the earlier visits, notes that the statements of the prisoners are consistent, since the conditions of detention in the Detention Center in Prizren, in terms of the space for the prisoners, are not in accordance with The Law on the Execution of Criminal Sanctions (LESP) nor the standards of the European Committee for the Prevention of Torture (CPT). Also, during the visit, the NMP team noticed that the ventilation in Wing D is not functional, the mattresses in the prisoners' rooms are old and smelled of mold, and the temperatures in the Center were extremely high (during the summer they are over 30 °C) which made the work of the NMP team difficult. The center in question was at full capacity with a total of eighty-eight prisoners, which is the capacity of this Center.

The Ombudsperson states that based on the Constitution of the Republic of Kosovo, on international acts, on the decisions of the European Court of Human Rights and on the standards of the European Committee for the Prevention of Torture, the state has a positive responsibility for treating deprived persons with dignity from freedom. Detention in inadequate

conditions constitutes degrading and inhumane treatment under Article 3 of the European Convention on Human Rights.

For this reason, it was recommended to the Ministry of Justice that, as long as this center is in use, to improve the accommodation conditions for prisoners, in accordance with the minimum standards set by the Law on the Execution of Criminal Sanctions, with the standards of the KPT, and with other international standards for the protection of prisoners' rights. Fix the ventilation, provide the prisoners with new mattresses and install air conditioners due to the high heat in the summer.

Report of the National Mechanism for the Prevention of Torture on the visit to the Correctional Center in Dubrava

The purpose of this visit was to assess the respect for the basic human rights of prisoners, which are guaranteed by the Constitution, the laws applicable in the country as well as international standards for the protection of the rights of persons deprived of their liberty, the assessment of progress of the competent authorities in the implementation of the recommendations of the Ombudsperson sent through the report of the previous year, opening the complaint boxes, interviewing the detainees/prisoners who have requested to meet with the representatives of the Ombudsperson as well as checking the files of cases which have been forwarded by the Health Department of Prisons.

During the visit, the NMP interviewed a significant number of prisoners and did not receive credible complaints of physical abuse or excessive use of physical force by correctional officers or of behavior by prison authorities that would constitute a violation of dignity of prisoners.

The team was informed that the number of incidents has decreased due to the fact that measures have been taken by the Kosovo Correctional Service and organized groups have been closely observed, which have caused problems, by moving them to wards or other centers. The number of incidents from March to October was 46 cases, which were processed according to the domestic order, also pronouncing disciplinary measures.

After the visit, the National Mechanism for the Prevention of Torture finds that the lack of warm water and the use of improvised means for heating water pose a danger to the lives of prisoners; outdated and damaged mattresses and pillows directly affect the health and hygiene of prisoners and cleanliness in general; the oven for baking bread has a small capacity and has frequent breakdowns, which presents a problem in the regular supply of bread; outdated kitchen equipment (despite the fact that there have been some small investments), in addition to presenting danger and difficulties in doing work, they also affect the quality of food; the staff engaged in the kitchen were not all equipped with uniforms, while the prisoners engaged in work did not have uniforms at all, which endangers hygiene in food preparation; the workshops that operate within the center often run out of material for work, there are not enough instructors, while the roof is dripping (despite periodic renovations), while during the winter there is no heating, which would enable stable work, safe and healthy; in the Dubrava hospital, the conditions are not good, dirt, damaged sanitary facilities, as well as the placement of wheelchair users on the second floor represent a fundamental violation of human rights.

Likewise, the small number of social workers is not able to cover the demands of the prisoners, which may affect their well-being in the progress of social life inside the prison and will affect their lives after the end of the sentence.

Through this report to the Ministry of Justice To find a solution for a sufficient supply of warm water and remove improvised electrical equipment; provide prisoners with quality mattresses and pillows; to supply the kitchen with a new oven for baking bread, as well as with new equipment for cooking and food preparation; kitchen staff to be supplied with complete uniforms, according to standards; to provide the complete materials for work, that is, to have a stable fund for the continuous provision of materials necessary for work in the workshop; to engage the necessary instructors in the workshops, such as: plumbing, carpentry, fitter and increase the number of masons, according to the assessment of needs; to carry out sustainable renovations at the peak of the workshop where the water drips, as well as to create suitable conditions for work in the winter time, providing heating; the recommendation to create adequate conditions for those hospitalized in the prison hospital, to make an assessment and to renovate the rooms and sanitary facilities is reiterated; to look at the possibility of building an elevator in Stationary or to find a choice for people with wheelchairs; to increase the number of social workers.

The Rights of the Accused

Opinion of the Ombudsperson regarding the defendant's right to defend himself with the help of a defense attorney

The opinion is intended to express the views of the Ombudsperson from the point of view of human rights, namely the rights of the defendant to defend himself with the help of a lawyer, a right that is related to the right to a trial fair and impartial.

The complainant's complaints were that the Prosecutor's Office, during the interrogation related to the case, violated the defendant's rights, namely the right to defend himself with the help of a defense attorney, provided for in Article 11, paragraph 2, of Code 08 /L-032 of Criminal Procedure; the right to consult with the defender before and during the questioning, provided for in article 150, paragraph 4, of the same code; as well as the right to defend oneself with the help of a defender and the right to communicate freely with him, guaranteed by Article 30, point 5, of the Constitution of the Republic of Kosovo. A contentious issue is the non-allowance of the defendant's communication and consultation with his defense attorney, during the interrogation at the prosecutor's office.

The Ombudsperson considers that according to the Constitutional provisions the accused is allowed to communicate freely with his defender and that everyone enjoys the right to effective legal remedies, if it is established that a right has been violated. The defendant has the right to defend himself with the help of counsel, as well as the right to consult with his counsel, before and during the interrogation. In this regard, the Ombudsperson emphasizes that if the questioning of the defendant was implemented in violation of the provisions of Article 150 of the Code of Criminal Procedure, the statements of the defendant are inadmissible. In relation to this issue, the Ombudsperson considers that the evidence obtained in violation of the provisions of the criminal procedure is inadmissible.

The Ombudsperson estimates that according to the ECHR, the right to be assisted by a lawyer requires not only that the lawyer be allowed to be present, but also that he be allowed to actively help the suspect, among other things, during the taking questioned by the police and intervene to ensure respect for the rights of the suspect, as a person accused of a criminal offence, must be able to receive the full range of services specifically related to legal aid not only during the course of the trial, but also during the preliminary phase, bearing in mind the special importance for the preparation of the criminal procedure. According to

the local legislation, there is no provision according to which the free communication of the defendant with his defense counsel can be limited, before and during the interrogation.

The Ombudsperson assesses that procedural actions in criminal proceedings, which may result in the denial of the defendant's right to communicate freely and to consult with his counsel, guaranteed by the Constitution, the ECHR and the provisions of the Criminal Procedure Code, are considered inadmissible.

However, without taking into account the constitutional and legal guarantees that belong to the defendant in the use of legal remedies, the Ombudsperson emphasizes that the enforcers of the laws, namely the Kosovo Police, prosecutors and judges, must be careful in the implementation of the procedures when taking into account questions of the defendant, in order to strictly respect the constitutional and legal rights as well as the international standards and the practice of the ECtHR, which are related to the right of the defendant to be defended through the defender as well as the right to communicate freely with his guardian.

The Ombudsperson considers that it is the duty of the Kosovo Police, the Prosecutorial Council and the Judicial Council of Kosovo to respect the standards of the procedures for questioning the defendant, taking into account his right to communicate freely with the defender of him, before and during the interrogation.

The Right to a Fair and Impartial Trial and the Right to a Legal Remedy

The reports concerning the violation of the right to a fair and impartial trial for cases A. no. 238/2019, A. no. 496/2021, A. no. 85/2022, A. no. 820/2018, A. no. 978/2019, A. no. 623/2017, A. no. 696/2021, A. no. 204/2020, A. no. 608/2019, A. no. 909/2019, A. no. 11/2023, A. no. 633/2022, A. no. 362/2021, A. no. 645/2022

All the reports of the Ombudsperson that refer to the right to a fair and impartial trial have almost a common denominator, the extension of judicial procedures beyond the norms and standards established both in the practice of the Constitutional Court and the International Court of Human Rights expressed through their decisions.

In its interpretations, the ECHR emphasized that in democratic societies, in the sense of the Convention, the rights to a regular judicial process occupy such an important place that any narrow interpretation of Article 6, paragraph 1 would not answer either the purpose or character of this article (*Delcourt v. Belgium*). This article burdens the states with the obligation of the organization of their legal systems, in order to enable the courts to realize all the conditions arising from it, including the examination of the case within a reasonable time. The justice system cannot develop with delays that lead to the weakening of the role of the courts and trust in them.

The European Court of Human Rights in relation to the delay of court proceedings, respectively violation of Article 6 of the ECHR, has established several criteria on the basis of which the cases must be examined, namely: a) the complexity of the case, b) the conduct of the parties, c) the behavior of the competent authorities and d) the importance of the subject. The reports repeatedly refer to this as a practical guide in dealing with bereavements of this nature.

The Ombudsperson through these reports recalls that according to the judicial practice of the ECHR, the duration of the procedure is calculated from the time of initiation of the judicial

procedure (Moldovan and others against Romania), and finds that the dragging of the judicial procedures without a final decision, violates: a) The right to a fair trial, due process, within a reasonable time limit defined and protected by Article 31 of the Constitution of the Republic of Kosovo and Article 6 of the ECHR; b) The right to effective legal remedies, protected by Article 32 of the Constitution of the Republic of Kosovo and Article 13 of the ECHR; c) The right to judicial protection of the rights defined in Article 54 of the Constitution of the Republic of Kosovo. In all these cases, the Ombudsperson recommended the responsible courts to undertake relevant actions for the examination and decision in the cases for which it was found that the proceedings were delayed beyond the norms and standards.

Ex officio report no. 422/2021, Transitional Justice and the implementation of its mechanisms

Despite the fact that Transitional Justice as a concept has only really been used for a few decades, there is already a very normative understanding of what it entails. However, despite the range of activities at the global level and the academic debate on this topic, the field of Transitional Justice is considered to be characterized by a relative lack of theoretical framework. The discourse and practice of Transitional Justice are in fact largely based on implicit assumptions about transition and/or justice that have been strongly influenced and shaped by particular historical experiences, such as those after the Second World War (Nuremberg and Tokyo trials), the transition of South American countries from dictatorship to democracy, the international tribunals for the former Yugoslavia and Rwanda, or the Truth and Reconciliation Commission (TRC) in South Africa.

Transitional Justice has the "duty" to help a post-conflict society to ensure justice for victims and their recognition, to increase citizens' trust in state institutions, to ensure respect for human rights, to promote the rule of law and through these measures to prevent massive human rights violations in the future and promote reconciliation.

The importance of truth in a post-conflict society is closely linked to democratization and transparency. After the end of the atrocities, there is a general consensus that the democratic society, especially the victims, deserve to learn the whole truth about what happened during the period of the war or the dictatorial regime. In particular, the right of the families of disappeared persons to know the truth is guaranteed by the Additional Protocol to the Geneva Conventions.²⁵¹

The purpose of this report is to analyze from the perspective of human rights whether the competent institutions of the Republic of Kosovo were at the level of fulfilling the obligations arising from the Constitution of the Republic of Kosovo, the laws in force and international instruments, as far as addressing the crimes committed during the war in Kosovo and ensuring justice for the victims of these crimes. This report analyzes how far the state has managed to fulfill the obligations of Transitional Justice, such as: the state's obligations towards victims in providing justice for crimes committed against them; whether the state has managed to fulfill its obligation in its entirety towards the victims when it comes to collecting and documenting facts on war crimes; and has the right to know been fulfilled. It also assesses whether the state has managed to fulfill its obligations to provide material reparations to the victims and the right to non-repetition.

In order for the state of Kosovo to fulfill its obligations, it must more proactively and decisively design policies and strategies and implement them with concrete actions. The

²⁵¹ Geneva Conventions of 12 August 1949 and Additional Protocols of 1977 and 2005

recommendations that emerge from this report offer suggestions for possible solutions, which could contribute to the efficiency of existing mechanisms and the creation of new policies and mechanisms in the field of Transitional Justice.

Opinion of the Ombudsperson in the capacity of friend of the court (amicus curiae) to the Basic Court in Prishtina, Department for Administrative Affairs for case A. no. 370/2022

This opinion of the Ombudsperson in the capacity of a friend of the court expresses the views of the Ombudsperson viewed from the perspective of human rights, namely the assessment of the criteria that must be met according to the Law on the Judicial Council regarding the procedures for the proposal, election and dismissal of members of the Council from the Assembly.

The Assembly of Kosovo had announced a competition for the election of two members of the KGjK, and after the procedures in the Commission for Legislation, Mandates, Immunities, the Regulation of the Assembly of Kosovo and the Supervision of the Anti-Corruption Agency, two candidates were proposed to the Assembly for voting. . The Assembly in the plenary session had conducted the first round of secret voting and as a result of that voting, the complainant had received 46 votes in favor, while the other candidate had 25 votes in favor, and it was determined that none of the candidates had received the sufficient number of votes to was elected a member of the JCK.

Then, the Assembly held the second round of voting and issued Decision no. 08-V-462, with which it was established that none of the candidates proposed for the member of the Judicial Council of Kosovo did not receive the necessary votes to be elected and that the competition should be repeated.

The Ombudsperson considers that the actions of the Assembly expressed in Decision no. 08/V-462, dated February 2, 2023, were not developed according to the provisions of Article 10, paragraph 9, of the Law on the JCK, denying the appellant the right derived from the provision highlighted above.

The Ombudsperson estimates that if in the first round no candidate receives the majority of votes of all deputies present and voting, then in the second round the candidate who received the largest number of votes is considered elected. According to this definition, the Ombudsperson considers that the legal provision is clear and has left no room for the issue of repeating the competition for a member of the Council.

The Rights of Children

Ex officio report no. 468/2022, the positive obligations of the state to protect children from violence

The legal framework in Kosovo guarantees basic human rights and freedoms, including the rights of the child. The implementation and realization of these rights in practice is in the interest of the functioning of the rule of law. The Constitution expressly defines the obligation to respect freedoms and human rights, while in cases related to children, all actions undertaken, whether by public institutions or private institutions, will be in the best interest. good for children. According to the definition of the European Court of Human Rights, states have a duty to take reasonable measures to ensure that individuals within their jurisdiction

are not subjected to ill-treatment, including ill-treatment by private individuals. In cases of sexual abuse, children are particularly vulnerable and the right to human dignity, physical and psychological integrity requires special attention when a child is a victim of violence.

The purpose of this report is to draw the attention of public institutions regarding the positive obligations of the state regarding the protection of children from violence.²⁵² The report assesses how effective, reasonable and quick the actions taken by the competent state institutions have been, with the aim of protecting the child from violence, in accordance with the Constitution of the Republic of Kosovo, laws and other international instruments.

The Ombudsperson considers that prioritizing the view and consent of the child and the parents over the Police report for the high risk level, as a reason for releasing the child from the Shelter, was a wrong assessment with serious consequences for the child, directly contributing in revictimization. Take into account the institutional responsibilities in protecting children from violence and trafficking, their experiences and professional qualifications in this field, the situation on the ground, classified by the police as dangerous (the police as a specialized body in the field of security), the age of child and his vulnerable position as a victim of gender-based violence, the Ombudsperson considers that the institutions involved bear a greater burden of responsibility and should have been able to better perceive and anticipate the risk, which threatened the child, rather than the child's parents, who were considered secular in the field of law and public safety.

Despite the legal possibilities, no additional protective measures were taken to protect the child from violence after leaving the Shelter. During this time, the only institutional supervision of the child was exercised through communication between the Center for Social Work and the parents. The Ombudsperson reiterates that the best interest of the child requires a comprehensive effort to ensure the physical, psychological, moral and spiritual integrity of the child and to promote human dignity, taking into account the individual characteristics and other circumstances of the case. In this particular case, the responsible authorities had failed to implement Article 5 of the Law, namely to ensure the best interest of the child, which article obliges increased care in relation to the child's history, taking into account the special situations of abuse as well as the risk of similar situations are likely to occur in the future. Consequently, the Ombudsperson concludes that the authorities did not act in the best interest of the child.

The Ombudsperson notes that the state authorities that were involved in the case, as well as some media, referred to the child as a minor, which in the spirit of the implementation of the Juvenile Justice Code and other circumstances can be considered as a young child victimization. Moreover, based on the documentation of the case, during the hearing as a witness, the child was treated as a minor. The Ombudsperson reiterates that children under the age of 14 are criminally irresponsible. Consequently, the child in question, as a victim or witness, has the right to freely express his views, opinions and beliefs, in his own words, and has the right to contribute to decisions that affect his life, including decisions that taken during the judicial process. The guardianship body has not dealt with the case at all, as a professional municipal body for social issues, responsible for protecting the interests of children and adults.

The Ombudsperson states that the provision of psychological services had been delayed, in

²⁵² Regarding the case published by the media about the rape of a minor girl in Pristina, throughout the text of this report, we refer to children. In other cases where you want to notice the term: witness, minor, victim, and so on. we refer to the name used by the institutions in the documentation of the case.

the context of the fact that violence against children is extremely complex and has serious psycho-social consequences, which directly affect the growth and development of the child and that the approach based on children's rights requires a quick and efficient response.

There is no decision from the responsible authorities regarding the case of the placement of the child in the shelter and her release from the shelter in accordance with Article 27 of the Child Protection Law. The non-drafting of the relevant sub-legal act, which regulates the organization and scope of child protection homes, as the main prerequisite for the implementation of Article 30 of the law by the Ministry of Finance, Labor and Transfers constitutes a violation of Article 65 of this law. Likewise, the Ombudsperson assesses that the non-implementation of the legal authorizations arising from the law on residence and place of residence, more precisely the non-keeping of evidence for guests, had hindered the development of investigations for investigative bodies and the prevention of the commission of criminal offences.

Through this report, the Ombudsperson made relevant recommendations to the seven authorities responsible for taking action in this case.

Ex officio report no. 37/2023 non-establishment and non-functionalization of guardianship bodies by municipalities

The purpose of the report is to draw the attention of public authorities and to provide relevant recommendations for handling and undertaking the necessary measures within the framework of legal powers and responsibilities related to the creation and functioning of the Custodial Body for the performance of the tasks required under the relevant legislation in the Republic of Kosovo.

Legislation in the Republic of Kosovo includes a large number of normative-legal acts, which aim to provide special protection for children. The Constitution protects and guarantees basic human rights and freedoms, including the rights of the child. The implementation and realization of these rights in practice is in the interest of the functioning of the rule of law. The Constitution expressly defines the obligation of all institutions to respect human freedoms and rights, and this principle applies to everyone, including municipal institutions, by undertaking all the necessary legal actions in the formation and functioning of the Guardianship Body, as a competent and responsible professional mechanism for the protection of the child's interests in the circumstances determined according to the legislation in force in the Republic of Kosovo.

The powers and responsibilities of the Guardianship Body, as an important mechanism for the protection of children's rights, are defined in several other laws, including bylaws, but not limited to Law no. 02/L-17 for Social and Family Services; in Law no. 04/L-081 on Amendment and Supplement to Law no. 02/L-17 for Social and Family Services; in Law No. 06/L-084 on Child Protection, in Code No. 06/L-006 of Juvenile Justice; in the Administrative Instruction (QRK) - no. 02/2021 on the Application of Justice to Children in Criminal, Civil and Administrative Procedures; in the Administrative Instruction (QRK)-no. 01/2021 for the Protection and Treatment of Children Committing Criminal Offenses under the Age of Criminal Responsibility.

From the research carried out by the Ombudsperson some time ago, it was assessed whether the provision of social services in the Republic of Kosovo is in accordance with the standards for the protection of human rights and gave specific recommendations in terms of improving the current situation. The findings of this research, summarized in a report, found

that social work centers offer over 50 types of social services and social services officials do not have separate reports, but are obliged to deal with all categories of cases and services. professional social. The report also estimated that it is necessary for the staff of the PSC to be profiled, since the nature of the work for certain subjects is diametrically opposed and a social services officer does not have the capacity to perform all services at the same time with the same professionalism. Also, the number of officials is insufficient to carry out the tasks of PSCs, provided by law. In particular, with regard to children, most PSCs are unable to fulfill the legal obligation regarding the Guardianship Body. No PSC has a licensed psychologist who could provide a professional opinion on children's beliefs on adoption issues as well as other areas. PSCs have turned into administrative-technical institutions, due to the lack of professional staff and the lack of follow-up facilities for providing adequate services. There is a lack of supervision, planning, financing and advancement of services in accordance with the needs of the municipalities.

During the treatment of the case related to the positive obligations of the state to protect the child from violence, the Ombudsperson assessed that the Guardianship Body has not dealt with the case at all, as a professional municipal body for social issues, responsible for protecting the interests of children.

Based on the documentation received by the municipalities, namely the decisions on the establishment of the Custodial Body, it is noted that only five municipalities have established the Custodial Body. Failure to establish this body prevents the implementation of the provisions of Law No. 06/L-084 on Child Protection, Code No. 06/L-006 of Juvenile Justice; of Administrative Instruction (QRK) - no. 02/2021 for the Application of Justice to Children in Criminal, Civil and Administrative Procedures and Administrative Instruction (QRK)-no. 01/2021 for the Protection and Treatment of Children Committing Criminal Offenses under the Age of Criminal Responsibility.

Report on case A. no. 671/2022 non-exemption from the payment of the use of the parking lot within the premises of CUCK for persons who receive services for children.

The report was drawn up based on an individual complaint submitted against the University Hospital and Clinic Service of Kosovo due to the non-response to the complaint about the compulsion to make the payment for the use of the parking lot for the car with which he had sent the child to the clinic, even though he had presented the report on the child's visit to the doctor. The complainant had raised concerns that such an action constituted a violation of his child's right to have full access to health services.

In communication with the directorate of UHCSK, it was understood that Regulation No. 116 on the Use of Parking in the Spaces of the UHCSK/CUCK (hereinafter: the Regulation) exempted a category of people who use the parking lot in the spaces of the UHCSK from the payment of the parking lot, and according to the answer, this includes children diagnosed with certain diagnoses, but not all children who seek health services in the CUCK.

With this report, the Ombudsperson assesses that in order to consider full access to health services for children, there should also be easy access for parents to health institutions, without such barriers, as is the case with paying for parking within the space of UHCSK. Moreover, easier access for parents to health institutions to receive health services for children also contributes to receiving more efficient services for children. Children's health care includes, among others, regular medical visits, which simultaneously contribute to the prevention and diagnosis of any eventual disease. The Ombudsperson estimates that Article

7 of Regulation No. 116 on the Use of Parking in the Premises of the CUCK/ UHCSK is contrary to the spirit of the Constitutional provisions, the Convention on Child Protection and the Law on Child Protection. For what was said above, the Ombudsperson recommended the University Hospital and Clinical Service of Kosovo to change the Regulation so that the category of children who are exempted from the parking fee in the spaces of CUCK/ UHCSK and to publish it in the official website so that citizens can be notified of its content.

Property protection

Report on case A. no. 835/2016, non-compensation of workers of the former Social Enterprise - Agricultural Cooperative “Liria” in Bardhosh

The purpose of this report is to draw the attention of the authorities regarding the property rights of the former employees of the former Social Enterprise - Agricultural Cooperative “Liria” Bardhosh (N.Sh. "Liria"), a part of which has been expropriated for public interest in 2012, for which they have not yet received compensation.

The Government of the Republic of Kosovo had taken the final decision according to which it found that the process of expropriation had been extended by including certain additional areas of the cadastral plots which were already included in the expropriation in the preliminary decision. Decisions for expropriation by the Government, among other subjects, also include the real estate of N.Sh. "Liberty", which according to Law 04/L-034 on the Kosovo Privatization Agency (KPA), falls under the administrative jurisdiction of this agency.

The Ombudsperson, on March 6, 2018, sent a letter to the managing director of the KPA, to request information regarding the complainant's claims, which he supported in the request that the KPA submitted to him on May 2, 2014. , the Expropriation Department of the Ministry of Environment and Spatial Planning (MESP), for the transfer to the account of N.Sh. "Freedom" of means of compensation for expropriated property. The KPA, in its response dated July 6, 2018, had confirmed the sending of the request to the Expropriation Department of the MESP and had emphasized that until July 3, 2018, no transfer of funds had been carried out by the MESP were related to the expropriation of the assets of N.Sh. “Freedom”.

Despite the communications with the relevant institutions, it remains unclear whether any compensation was made for the expropriation of the properties of N.Sh. “Freedom” on the basis of other expropriation decisions, due to conflicting answers between the Expropriation Department and the KPA, also due to contradictions from the Expropriation Department itself, where in the answer to the Ombudsman, dated 8 August 2018, it was said that the properties of N.Sh. "Liria", of the Bardhosh cadastral area, were compensated according to the final Decision No. 03/100, dated November 12, 2014, while in the response to the complainant, dated December 15, 2020, it was stated that the Expropriation Department had not made payments for the former social properties , which were expropriated for national interest. In addition, the Ombudsperson considers that the issue raised by the complainant requires the attention of the Government of the Republic of Kosovo and the relevant authorities, so that the expropriated property of this company is compensated as soon as possible, in accordance with the final Decision No. 12/133, dated June 5, 2013.

The Ombudsperson states that the complainant as well as the other owners, who were not compensated for the 20% value from the expropriation of the properties of S.SH “Liria”, have directly violated the right to property guaranteed by the Constitution and international instruments. applicable in the Republic of Kosovo. In this case, the Ombudsperson recommended to the Government that, without further delay, transfer the funds for the

compensation of the expropriated property of N.SH. "Liria" Bardhosh, to the Kosovo Privatization Agency, so that the company's qualified workers can be distributed the value of 20% of the expropriated properties.

Report on case A. no. 534/2019 regarding the amendment and completion of Law no. 06/L-005 on Real Estate Tax

The purpose of this report is to draw the attention of the Assembly of the Republic of Kosovo and the Ministry of Finance, Labor and Transfers, regarding the violations of human rights with the provisions of Article 29 of Law no. 06/L-005 on Real Property Tax (hereinafter: Law on Real Property Tax).

The case was initiated by an individual complaint with claims that the Law on Tax on Real Estate, namely Article 29 [Suspension of communal services], violates human rights, because it suspends communal services for citizens of the Republic of Kosovo who do not have paid real estate tax. The complainant points out that while the Law on Real Estate Tax has determined the possibility of collecting tax liabilities through enforcement, it is not right to suspend municipal services to citizens who have unpaid tax liabilities.

The Ombudsperson estimates that the Law on Real Property Tax has regulated the issues of tax imposition on real property as well as the basic rules and procedures for tax administration. Regarding this matter, the Ombudsperson notes that the payment of real estate tax is mandatory and irreversible. According to this legal definition, the Ombudsperson considers that every person who owns immovable property is obliged to pay the tax according to the provisions of this law.

In this report, the Ombudsperson emphasizes article 29 of the Law on Real Estate Tax, according to which, if the debtor has not paid the unpaid tax obligations, the municipality suspends certain municipal services. The Ombudsperson finds that the suspension of municipal services is not in accordance with the purpose and conditions defined in the Law on Tax on Real Estate and estimates that while the law has defined the application of interest as a financial burden to taxpayers who have not fulfilled their tax obligations, the suspension of municipal services is a double sanction against taxpayers.

The Ombudsperson emphasizes that it is indisputable that the real estate tax must be paid. Likewise, to taxpayers who do not pay their tax obligations according to the periods defined in the law, interest should be applied as a financial burden, but the limitation of municipal services to citizens who have unpaid tax obligations prevents them from accessing municipal services, and as a result, the Lawyer considers that the suspension of municipal services to taxpayers who have not fulfilled their unpaid tax obligations, except that it is not in accordance with Law no. 06/L-005 on Real Estate Tax, is not in accordance with Law no. 03/L-040 for Local Self-Government. For this reason, it is recommended to undertake the legislative initiative for the amendment and completion of Law no. 06/L-005 on Real Estate Tax, so that Article 29 of this law is removed in its entirety and Regulation (QRK) no. 07/2021 on the Suspension of Municipal Services for the Collection of Property Tax Obligations.

The Right to Education and the Right to Work and Exercise the Profession

Ex officio report no. 676/2022, education and opportunities of young people in the labor market

In order to implement the relevant constitutional and legal provisions, which regulate the respect of children's rights in education, the report assesses the level of harmonization of the education of young people in Kosovo's higher and professional education institutions with the conditions of the labor market. After the analysis of the relevant legislation, previous research, policies, information and data that the Ombudsman Institution has regarding the issue, it appears that during the last decade Kosovo has made progress in the field of the implementation of the rights of man in education. However, this progress has been uneven in different sub-sectors in terms of participation, inclusion and development of young people according to their needs and abilities.

Vocational education and training in Kosovo is not in line with the requirements of the labor market. The data related to the demand of the labor market (employment, BPV by economic sectors and the structure of businesses) and those on the number of students according to profiles are not compatible. There is a lack of updated data for measuring demand in the labor market, which prevents MESTI from following the changes in the economy and reflecting them in the offer of Education and Vocational Training.

Although there are no exact data, the information gathered for this analysis, but also from previous studies, show that a limited number of students participate in learning at the workplace, as an essential instrument for preparation for the labor market. The lack of adequate professional development of teachers in vocational schools makes it difficult for students to learn, especially when students do not have the opportunity to be placed in an enterprise for on-the-job learning. It is considered that access to professional practice in companies would strongly influence the improvement of the quality of teaching and learning in these schools.

Vocational education and training in Kosovo are not considered attractive professional choices, but as a second option for students compared to other studies. The Accreditation Agency of Kosovo also considers the aspect of connection with the labor market in the evaluation of the programs. However, in most cases, higher education institutions lack data to assess the reasonableness of the study program and there is no standard methodology to use for assessing labor market needs.

Until today, there is no system in Kosovo that guides and advises students to become professional and study in fields for which there is a greater demand in the market. At the national level, there is no regular system of data collection or any mechanism for assessing and forecasting the needs of the labor market in Kosovo. Despite the mandate for continuous quality control in accredited institutions and their programs, the Kosovo Accreditation Agency does not sufficiently monitor the work of these institutions, and according to the Ombudsman's assessment, there is a need to intensify this monitoring.

The report contains recommendations for improving the policies and practices of higher education and professional education institutions to expand the opportunities for a more productive and successful personal and economic development of Kosovar youth in the labor market.

Ex officio report no. 147/2021, hate language in elementary school textbooks in Kosovo

Textbooks are the primary source and tool of education and learning in all educational systems. Since the texts provided to students in schools are required reading for them, they are the most collectively used sources of information and education of a community. As such, textbooks have a great, comprehensive and long-term influence on the cultural education and on the formation of the mentality of the members of a society. For a large part of society, regardless of subsequent university education and formal and informal professional education, the knowledge bases and knowledge acquired during primary and secondary education remain the foundation of lifelong education. This shows the vital importance and total long-term importance of textbooks in the conditions and prospects of a society as well as in the very levels and characteristics of that society's civilization. So historically, societies and states have attached importance to textbooks, namely their content and the narrative they convey.

The purpose of the report is to research and analyze the language of hate used in the textbooks of primary education and lower secondary education (hereinafter: primary education) in the education system in the Republic of Kosovo. The report was compiled by analyzing a total of 47 textbooks that are used as teaching aids in schools in the Republic of Kosovo, from the first to the ninth grade.

The need for such a research and report, in the first place, comes naturally as a result of global policies for awareness of hate speech and fighting it until its elimination. It also comes as a result of the internal needs of the society in Kosovo, to debate on various topics and problems that violate basic human rights and freedoms. As the youngest state and a society that is building a real democracy, the Republic of Kosovo needs to constantly test its conditions and conditions regarding such topics as: freedom of expression or speech, gender equality, non-discrimination on different grounds, inter-religious tolerance, ethnic and cultural diversity, etc. Until today, school textbooks in general in Kosovo have been the subject of discussion and subjects of analysis by many public actors and from different perspectives. But this is a specific research of school textbooks focused only on hate speech and not on other didactic, pedagogical, professional aspects, etc.

The Ombudsperson, based on the evaluation and analysis of the primary education textbooks in Kosovo, finds that the standards for the language used in the textbooks are generally respected, this is due to the fact that the analysis of the textbooks shows that there is a very presence of small and quite limited hate speech in all its manifestations, as explained in the section on hate speech theories and laws. These findings reflect the institutional and societal efforts to revise the previous texts and address them towards supporting a culture of tolerance, equality and anti-racism. From a total of 47 school textbooks analyzed, two more prominent cases of hate speech were found. This shows a deliberate positive trend towards balance, in terms of the inclusion and distribution of illustrated texts and characters that promote gender equality as well as some text and illustrated characters that include people with disabilities. However, he considers that all the diverse groups of society are not sufficiently presented and balanced in pictures and texts.

Based on the findings from the analysis of the textbooks, it results that the textbooks analyzed during this research generally do not contain discriminatory language on gender, racial, religious grounds, as they do not contain typical language of hatred towards certain communities, or incitement towards a language such.

The analysis of the textbooks showed that the textbooks that contain inappropriate language and hate speech are the textbook Albanian Language 6, in the section "Reading text", entitled:

"We read popular narratives"; and the text entitled "Albanian family once and nowadays".

Through this report, the Ombudsperson recommended the Ministry of Education, Science, Technology and Innovation to draw up a guide for the prevention and elimination of hate speech, which should be applied in all cases when new curricula and textbooks are drawn up or revised those in force; to make a complete analysis of all textbooks with the aim of inclusiveness of diverse groups and balanced presentation in textbooks; to organize trainings for authors of school textbooks and for teachers on freedom of expression, in order to increase the ability and capacities for the elimination of hate speech during the drafting of school textbooks and during teaching; to include special teaching units in textbooks on hate speech, in order for students to become familiar with the basic concepts and meanings as well as the forms of manifestations or incitements of hate speech; remove the two texts identified as containing hate speech in the Albanian language book 6 and replace them with texts suitable for the nature of the textbooks and the grade level.

Ex officio report no. 519/2022 employment in central institutions and local self-government bodies in Kosovo of persons with disabilities

The report has two main goals: To verify whether the level of employment of persons with disabilities is in accordance with the provisions and legal obligations, especially with the Constitution of the Republic of Kosovo, with Law no. 03/L-019 for Training, Professional Retraining and Employment of Persons with Disabilities; with Law no. 05/L-021 Against Discrimination and the National Strategy for the Rights of Persons with Disabilities (2020-2023), and to verify whether the current level of employment of persons with disabilities in the Republic of Kosovo constitutes discrimination against them, or whether the principle of their equality before the law is respected.

The ombudsperson has continuously been notified either through meetings, discussion tables and civil society organizations about the non-fulfillment of the quota set by law for the employment of persons with disabilities in public sector institutions as one of the main problems that makes the position difficult theirs. For this purpose, ex officio investigations were started to verify these claims.

With this report, the Ombudsperson states that it is indisputable that persons with disabilities, regardless of their abilities, have rights and needs that the state is obliged to fulfill based on international conventions and standards, as well as based on of the legislation in the country. Therefore, the Government of Kosovo as the main goal of all policies should have the improvement of the living conditions of citizens, including the lives of persons with disabilities, achieving sustainable results in their inclusion in society.

Discrimination and marginalization of people with disabilities is one of the worst social stigmas that is still present in Kosovar society in the labor market, either because of negative attitudes towards them, or because of the competition of the "healthy" power. worker. The documented vulnerability during the employment of this population category requires specific targeted government measures, which will enable the universal solution of the challenges in the labor market to achieve the goal of ensuring equal rights and opportunities for persons with disabilities. limited and to apply the relevant provisions of legal instruments at the international and national level. In the employment of persons with disabilities, the failure of public authorities to fully implement the relevant provisions of Law no. 03/L-019 on Training, Professional Retraining and Employment of Persons with Disabilities, of Law no. 03/L-212 of Labor, presents an act of direct discrimination on the basis of disability, defined in articles 1 and 4, paragraph 1, point 1 and point 8, of the Law on Protection from Discrimination.

Report on case A. no. 86/2022, regarding the harmonization of the Regulation on the Establishment and Operation of the Resident Ensemble of the National Theater and City Theaters with the Regulation on the Ranks and Salaries of Culture Creators and Performers and Professional Employees of Cultural Heritage

The report is based on an individual complaint with claims that Regulation no. 04/2021 on the Amendment and Supplement to the Regulation (ASR) no. 04/2019 on the Establishment and Operation of the Resident Ensemble of the National Theater and City Theaters is discriminatory and contains ambiguous and contradictory terminology. The report analyzes these claims, analyzes Regulation no. 04/2021 on the Amendment and Supplement to the Regulation (ASR) no. 04/2019 for the Establishment and Operation of the Resident Ensemble of the National Theater and City Theaters, considering it in non-compliance with the regulation approved on December 30, 2021, with Regulation no. 15/2018 on the Ranks and Salaries of Creators and Performers of Culture and Professional Employees of Cultural Heritage (hereinafter: Regulation no. 15/2018), approved by the Government of the Republic of Kosovo on September 25, 2018.

The Ombudsperson considers that Regulation no. 04/2021, even though an effort has been made to harmonize with Regulation no. 15/2018, but in fact it has exceeded it, leaving still unclear the issue of actors' experience realized in city theaters and its calculation as a criterion for the categorization of actors according to Regulation no. 04/2021.

The Ombudsperson also in this report reiterates the position according to which, in a hierarchical sense, the acts approved by the Government of the Republic of Kosovo dominate the acts approved by the ministries, considering that a norm to be implemented successfully must be clearly, and especially the norms that contain grading or categorization criteria for certain subjects.

In this report, the Ombudsperson assesses that deficiencies in the normative acts affect the rule of law, namely legal certainty. With legal certainty, it is required that the legal rules are clear and precise, with the aim of predicting situations and the actions or promises given to individuals by the state (legitimate expectations) must be respected. Also, legal certainty means that the law must be applied in practice.

Requests for the Constitutional Court and Comments of the Ombudsperson

Comments of the Ombudsperson regarding Law no. 08/L-197 for Public Officials, according to the notification of the Constitutional Court for the registration and merging of requests KO 216/22 and KO 220/22

The Ombudsperson received from the Constitutional Court a notification for the registration and merger of requests KO 216/22 and KO 220/22. Through this announcement, the interested parties have been given the opportunity to give their comments regarding Law no. 08/L-197 for Public Officials, until January 30, 2023.

The Ombudsperson, as an interested party in this case, emphasized in the comments given that the LZP has not determined which positions are considered specific positions, for which suitability and additional specific criteria must be required. In this regard, the Ombudsperson considers that the norm as defined in Article 9, paragraph 2, is unclear and may produce

legal uncertainty. Moreover, the non-determination of specific positions, in addition to legal uncertainty, makes it impossible to predict the norm, these elements of the rule of law.

According to the opinion of the Ombudsperson in article 12, the competence of the Government towards the institutions, namely towards the employees in the administration of the institutions, defined in article 6, paragraph 4, of the same law (the justice system, the Constitutional Court, the Presidency) has not been avoided, the Assembly of the Republic of Kosovo as well as the independent constitutional institutions), who are civil servants with a special status, whose regulation is made by a separate act, recalling here also the positions expressed by the Constitutional Court through Judgment KO 203/19. The Ombudsperson also draws attention to the concept of legal and reasonable expectation in the protection of subjective rights. According to the ECHR, "legitimate expectation" must be of a concrete nature and must be based on legal provisions and legal acts. In the current case, the legitimate expectation of civil servants of low and middle management level, for the realization of the rights derived from the employment relationship, is based on the right acquired by the provisions of the Law on Civil Service, during the period that this law has been implemented and that the current content results in the violation of the employment relationship for low and middle management employees.

Comments of the Ombudsperson regarding Law no. 08/L-121 for the State Bureau for Verification and Confiscation of Unjustified Assets, according to the notification of the Constitutional Court regarding the registration of Request KO 46/23, dated February 21, 2023

The Ombudsperson received from the Constitutional Court the notification for the registration of the Request KO 46/23. Through this announcement, interested parties have been given the opportunity to give their comments regarding Law no. 08/L-121 for the State Bureau for Verification and Confiscation of Unjustified Assets.

The Ombudsperson analyzed Law no. 08/L-121 for the State Bureau for the Verification and Confiscation of Unjustified Assets, the claims in Request KO 46/23, all this in the light of Opinion no. 1083/2022 of the Venice Commission, dated June 20, 2022, and Opinion no. 1113/2022 of the Venice Commission, dated December 19, 2022, regarding the case in question.

The Ombudsperson considers that it is important for the Constitutional Court to evaluate the provisions of the Law on the Bureau, namely Article 10, paragraph 1, subsection 1.4, in terms of compatibility with the constitutional provisions, because in principle the dilemma arises as to whether such provisions violate the constitutional provisions, specifically if the appointment of a deputy of the Ombudsperson, as a member of the Bureau's Oversight Committee, violates the independence of the Ombudsperson, according to Article 132 of the Constitution.

The Ombudsperson considers that neither the Constitution of the Republic of Kosovo nor Law no. 05/L-019 for the Ombudsperson do not give such competence to the Ombudsperson, according to which, the Ombudsperson can appoint a member of the independent authorities, and as a result of these determinations, the Ombudsperson highly appreciates important for the Constitutional Court to evaluate the constitutionality of determining the competence of the Ombudsperson in appointing a deputy of the Ombudsperson as a member of the Bureau's Supervisory Commission, in terms of the violation of his independence, which is guaranteed by the Constitution of the Republic of Kosovo.

In addition, the Ombudsperson has analyzed Article 15 [Procedure for the election of the

General Director] and noted that Article 15 has regulated in detail the procedure that must be developed for the election of the General Director of the Bureau.

The Ombudsperson considers that leaving the competence of the Assembly Committee, after the procedure, at the end of the process to choose the candidate with the most points, after the failure of the Assembly in two rounds, as General Director, can in principle be seen as a solution against blockade, however, such a solution must be in accordance with the competences of the Assembly. Considering the competences of the Assembly, defined in Article 65 of the Constitution, according to the opinion of the Ombudsperson, such a determination avoids the development of the procedure in the Assembly, namely in the plenary session, as well as avoids the issuing of a decision by the Assembly.

Request for assessment of compliance with the Constitution of Law no. 08/L-196 for Salaries in the Public Sector, submitted according to official initiative (ex officio) no. 76/2023

The issues that the Ombudsperson raises before the Constitutional Court, related to the constitutionality of the contested Law, are as follows: if the contested Law has taken into account the findings of the Constitutional Court, expressed through Judgment no. KO 219/19, in terms of the principle of separation of powers, control and balance between them and in terms of preserving the independence of independent constitutional institutions; if the contested Law has taken into account the findings of the Constitutional Court, expressed through Judgment no. KO 219/19, regarding the rule of law; if the contested Law has taken into account the findings of the Constitutional Court, expressed through Judgment no. KO219/19, in terms of the protection of the property right of entities in the public sector.

The Ombudsperson, after evaluating the complaints received, after analyzing the disputed Law, but also the meetings with the Working Group for the drafting of the law, considers that the contested Law has only partially managed to implement the Judgment KO219/19, for the reasons that We argue them below.

Complaints received mainly concern the reduction of coefficients, thus the reduction of salaries, removal of allowances or inadequate and unequal treatment between the positions defined by law. Complaints received were submitted by public sector entities, as group complaints, individually as well as through trade unions.

Currently, the contested Law, in terms of issuing by-laws, has progressed, because with a number of provisions it has provided for the issuance of by-laws by other authorities as well (see Article 8, paragraph 3, Article 22, paragraph 2, Article 24, paragraph 5, article 25, paragraph 8, article 27, paragraph 3, article 28, paragraph 7, article 36, paragraph 8, article 37, paragraph 4 and article 42, paragraph 4, of the contested Law). However, the Ombudsperson estimates that the contested Law limits the right to issue by-laws in two forms:

First, the wording "*their functional and organizational independence*", noting that this wording is deficient, because the Constitutional Court not only in Judgment KO 219/19, but also in a number of judgments, where it addressed the issue of independence of independent institutions, has emphasized that independent institutions enjoy functional, organizational and budgetary independence. The contested law did not take into account this assessment of the Constitutional Court, it only mentioned functional and organizational independence, while it did not take into account budgetary independence.

Second, it sets a ceiling for the budget organization, such as: the Presidency of the Republic of Kosovo, the Constitutional Court, the Justice System, the Assembly of the Republic of Kosovo

and the independent constitutional institutions and determines a number of allowances and the procedures for their benefit that will be decided by the special acts approved by the authorities in question and in accordance with this law (that is, with the contested Law).

The wording of the provisions that recognize the issuing of special acts to the relevant institutions, always referring these rights first to the contested Law, remains unclear. So, any right recognized by the provisions of the disputed Law is stated: "[...] is regulated by this law and by a special act approved by the competent bodies of the institutions." *The Ombudsperson takes into account the definition from article 2, paragraph 3, of the contested Law, according to which: "This law is applied to the extent that it does not infringe on their functional and organizational independence guaranteed by the Constitution."* However, this requires additional interpretation, because so far in practice it has been observed that other authorities have not referred to the internal acts of independent institutions, but to laws that may conflict with the organic laws of independent institutions and their acts. internal.

Despite the fact that the disputed Law has left the possibility for independent institutions to regulate the creation of new functions/positions/titles with internal acts, the definition of general rules limits the institutions to define specific positions with their internal acts. Thus, according to this provision, despite the right to adopt internal acts, independent constitutional institutions will be obliged to request from the Government, namely the ministry responsible for public administration, the determination of the salary class in each case when there is any structural change that applies to that function, position or title on the basis of equivalence. So, regardless of the stipulations in paragraph 4, of article 42, it seems that the Government is presented as the final decision-making mechanism that approves every proposal of independent institutions.

Regarding the internal organization of independent institutions, the Ombudsperson believes that the contested Law, its Appendix 10.5, has directly interfered with the organizational structure, already established, of at least two independent institutions and assesses that the contested Law did not take into account all the findings of the Constitutional Court, expressed in Judgment KO219/19, in relation to the independent constitutional institutions, in this way the Ombudsperson considers that the contested Law arbitrarily violates the organizational independence of independent institutions, and especially the Institution of the Ombudsperson.

The Ombudsperson considers that employees whose salary has been reduced by the disputed Law, despite the fact of the existence of the transitional supplement, in the next two years cannot have a salary increase, which does not happen in other positions, which, with the disputed Law, their salary has been increased. In addition, the Ombudsperson points out that in the event that in the next two years there may be an increase in the value of the coefficient, still the employees, whose salary was reduced by the contested Law, will not be able to benefit like the rest of the workers, whose salary was increased by the contested Law. In this regard, the Ombudsperson emphasizes that the treatment of employees in such a way that some employees are given an increase in salary and some employees are denied such a raise, shows the unequal treatment of employees, except for situations where raising wages has a legitimate, reasoned purpose.

The Ombudsperson considers that even in the case of the transitory supplement, the employees were not treated equally. Regarding this issue, the Ombudsperson, referring to Article 41, paragraph 3, of the contested Law, observed: *"Except from paragraph 1. and 2. of this article, members of the foreign service do not enjoy the right of the transitory allowance."* According to this determination, the Ombudsperson considers that in this particular case,

the termination of the transitory allowance for members of the foreign service, without any detailed justification, puts them in an unequal position before the law, compared to other employees for whom the allowance applies transitory.

The contested law, not only in the transitional and final provisions, but in general has created a situation where all employees have not been treated equally neither in the case of salary reductions nor in the case of salary increases. So, the decrease and the increase were not based on a linear system, not even within certain sectors, which resulted in some employees suffering a decrease, and some others an increase, within the same organization. The Ombudsperson draws this conclusion based on the claims from the complaints received regarding the contested Law.

It remains unclear what was the legitimate purpose of the salary reduction, and it is also unclear what was taken as a basis and what was the criterion to assess that the salaries expected to be reduced were high. If the legitimate goal was to level wages, then the next question that is asked is: *"Was this limitation of rights proportional, also expressed through unequal treatment, and was there a milder measure to achieve the goal?"*

The Ombudsperson considers that the leveling could have been softer and more proportional, first evaluating and justifying each position which is thought to have been paid more and those positions which have been paid less. Then the leveling could be achieved by a provision in the law, which would maintain the salaries for the positions that have been paid more, while raising the salaries for the positions that have hitherto been paid less, until the achievement of leveling.

The Ombudsperson considers that the contested Law, among other things: does not carry the spirit of Judgment no. KO219/19, in terms of the principle of separation of powers, control and balance between them and in terms of preserving the independence of independent constitutional institutions; does not carry the spirit of Judgment no. KO219/19 regarding the rule of law, in particular the principle of equality before the law; and does not carry the spirit of Judgment no. KO219/19 in terms of the protection of the property right of entities in the public sector.

The Ombudsperson does not contest the Law and its appendices in the parts where there are wage increases for certain sectors and where a legitimate purpose for such increases has been pursued. The Ombudsperson draws attention to the positions of the Constitutional Court expressed in paragraph 271 of Judgment KO 219/19, according to which any salary reduction must be such that it does not put the burden of the salary reduction on only some people or sectors certain of the public sector. Reasons for salary cuts should be many times more stable than reasons for salary increases.

Comments of the Ombudsperson regarding Code no. 08/L-032 of the Criminal Procedure of Kosovo, according to the notification of the Constitutional Court regarding the registration of the Request KO 114/23

The Ombudsperson accepted from the Constitutional Court the notification for the registration of the Request KO 114/23. Through this announcement, interested parties have been given the opportunity to give their comments regarding Code no. 08/L-032 of the Criminal Procedure of Kosovo.

Regarding this issue, the Ombudsperson has analyzed Code no. 08/L-032 of the Criminal Procedure of Kosovo (hereinafter: KPPK) and noted that there are several issues that the Constitutional Court should take into account during the assessment of Request KO 114/23.

The Ombudsperson draws attention to article 438, paragraph 2, namely to the part: *"[...], unless the final decision is clearly inappropriate or based on a serious error", and considers that the above*

determination results with ambiguity and without defining the norm, which may consequently affect the legal certainty of the defendant in the criminal procedure. In the present case, as long as a norm does not clarify when" the final decision is clearly inappropriate" and when "the final decision is based on grave error", then the determination of inappropriateness and grave error falls on discretion of the judges, which results in their arbitrary decision.

The Ombudsperson emphasizes that the procedural norms must be clear and predictable, so that the parties in the procedure can develop and predict their procedural actions in the direction of realizing the judicial protection of rights.

In order to further clarify the situation, it has analyzed the Administrative Instruction no. 03/2013 on Standards for the Drafting of Normative Acts and noted that this instruction defines:

"Article 6 [General principles of drafting normative acts], paragraph 1, sub-paragraph 1.1 defines:

1.1. The text of an act must be clear, simple, concise and not ambiguous, unnecessary abbreviations, jargon and long sentences must be avoided."

The Ombudsperson considers that deficiencies in normative acts affect the rule of law, namely legal certainty. With legal certainty, it is required that the legal rules are clear and precise, which aim to predict situations, actions and promises given to individuals by the state (legitimate expectations), which must be respected.

Comments of the Ombudsperson regarding Law no. 08/L-142 on the Amendment and Supplement to the laws that determine the amount of the minimum wage benefit, the minimum wage setting procedures and the tax rates on annual personal income

The Ombudsperson received from the Constitutional Court the Notice for the registration of the Request KO 114/23. Through this announcement, the interested parties have been given the opportunity to give their comments regarding Law no. 08/L-142 on the Amendment and Completion of the laws that determine the amount of the minimum wage benefit, the procedures for determining the minimum wage and the tax rates on annual personal income.

The Ombudsperson analyzed Law no. 08/L-142 on the Amendment and Supplement to the laws that determine the amount of the minimum wage benefit, the procedures for setting the minimum wage and the tax scales in the annual personal income (hereinafter: Law no. 08/L-142), claims in Request KO 114/23, in the light of legal certainty, the rule of law, health and social protection as well as human dignity.

With this law, Law No. 04/L-261 for Kosovo Liberation Army War Veterans, amended and supplemented by Law No. 05/L-141, Law no. 04/L-092 for Blind Persons, Law No. 05/L -067 on the Status and Rights of Paraplegic and Tetraplegic Persons.

Ombudsperson, considering the fact that with Law no. 08/L-142, the laws regulating the social aspects of paraplegic and tetraplegic persons, blind persons and KLA veterans have been amended, considers that in this case the amendment of basic laws in the direction of removing the basis of pensions or other income in the minimum wage, as well as the removal of the minimum threshold for the income of certain categories of persons (blind persons), may result in the violation of the legal security of categories of persons whose rights are regulated by laws highlighted above.

Such a practice severely violates the legal certainty regulated by special laws and causes instability in terms of the amount of income or pensions of persons whose rights are regulated by the above

laws. In such situations, when the Government decides to change the minimum wage as a result of the increase in the cost of living or eventual inflation, the non-existence of a basis that legally guarantees such persons that their income or pensions are in accordance with the minimum wage, it brings such people into economic difficulties and affects their way of life.

Likewise, the removal of such a guarantee (the case of the Law on Blind Persons) from special laws constitutes a dangerous practice in the processes of drafting legislation, because with general laws the content of the special laws which recognize and guarantee rights and benefits for different categories of persons.

With the content of Law no. 08/L-142, the rights and benefits of the categories of persons mentioned above are moved from the legal level to the sub-legal level (Government decision), putting them in a more uncertain position and with the risk of constant change.

The Ombudsperson considers that deficiencies in normative acts affect the rule of law, namely legal certainty. With legal certainty, it is required that the legal rules are clear and precise, which aim to predict situations, actions and promises given to individuals by the state (legitimate expectations), which must be respected.

The positive obligation of the state is to protect the individual, to provide him with means of living in the form of economic support from the state, when he is of old age or when he is unable to work, situations that do not depend on the will of the individual. Therefore, it is the obligation of the state, through its social policies, to take measures to guarantee positive protection to the individual, in the form of financial benefits, which includes old-age pension, veterans' pension, paraplegic and tetraplegic persons and other sensitive categories of society.

The Ombudsperson estimates that it is the state's obligation to provide sufficient income to the categories of persons mentioned above, so that they have the opportunity to lead a dignified life. This consideration is supported by the Ombudsperson, given the increase in prices and the inflation that has reigned in the country in recent years.

The Ombudsperson's comments regarding the constitutional amendment, namely the inclusion of the United Nations Convention on the Rights of Persons with Disabilities in the country's Constitution

In relation to this request, the Ombudsperson assessed that Kosovo has a prosperous legal framework for the protection of the rights of persons with disabilities, but the Constitution of the Republic of Kosovo, in addition to the key human rights documents already covered, the United Nations Convention on the Rights of Persons with Disabilities, which is a key human rights document relevant to disability issues, is missing.

With its provisions, the Convention, respecting the specific needs of persons with disabilities, on the one hand guarantees, and on the other hand obliges the states to implement in practice the basic human rights, such as: dignity, equality before of the law, non-discrimination, right to life, access to justice, personal liberty and security, prohibition of torture and cruel treatment or punishment, prohibition of exploitation and abuse, freedom of movement and citizenship, freedom of thought and expression and access in information, respect for privacy, home and family, right to education, health care; for work and employment, participation in political, public and cultural life.

The Ombudsperson strongly believes that the inclusion of the Convention in the Constitution will significantly contribute to the improvement of the social position of persons with disabilities, will improve their participation in all aspects of social life and will enable them to enjoy their rights equally with others.



**Promotion of
human rights
and fundamental
freedoms by OIK
during 2023**

Promotion of human rights and fundamental freedoms by OIK during 2023

Promotion and education on human rights is one of the most important pillars within the competences and responsibilities of national human rights institutions. During the year 2023, the Ombudsman, as the only national institution and as a constitutional and legal mechanism for the promotion and protection of human rights and fundamental freedoms, has been strongly engaged in intensifying activities with the aim of educating and raising the awareness of the country's citizens, on human rights and fundamental freedoms, which they enjoy based on the legal framework in force. On this occasion, the Ombudsperson and his associates, in fulfillment of this mandate, have held numerous meetings with citizens, field visits, awareness campaigns, meetings and discussions with members of civil society, public institutions and non-majority communities. Several conferences and roundtables were also organized, where the reports with recommendations that the Ombudsman addressed to public institutions in the country were revealed.

On April 14, 2023, a discussion table was held, on the occasion of the publication of the findings of the report with ex officio recommendations no. 577/2021, regarding "Sexual and reproductive health rights"²⁵³. This report is the result of a general investigation, spanning rural and urban areas, in the seven regions of the country, based on direct testimony from women and

girls, who have potentially had their rights related to Sexual Health and Reproductor. In conclusion, at this table it was emphasized that the situation is worrying in some sectors, in the neglect of reproductive and sexual health, especially in terms of access, awareness, provision of services, treatment without discrimination, but also the level of preparation, or the professionalism of providing services that are lacking in certain cases.



On May 2, 2023, in order to discuss mental health and the treatment of people with mental disorders, the Ombudsperson organized a discussion table, where representatives of the Judicial Council of Kosovo, the Prosecutorial Council, the Academy of Law, the Ministry of Justice, the Ministry of Health, the Correctional Service of Kosovo, the Institute of Forensic Psychiatry, as well as the Health Department of Prisons and the Council of Europe.

At the table, the challenges faced by all institutions for the treatment of people with mental disorders, as the most sensitive category of society, were discussed, as well as the amendment and completion of the Law on Mental Health, the Law on Non-Contestation Procedure and of the Status of the Institute of Forensic Psychiatry, with the aim of protecting the rights of persons with mental disorders and genuine inter-institutional cooperation.

253 <https://oik-rks.org/2023/01/04/raport-ex-officio-nr-5772021-lidhur-me-te-drejtat-ne-shendetin-seksual-dhe-riprodhues-qasja-ne-informata-dhe-sherbime-kontracesioni-ne-abort-dhe-kujdes-pas-abortit-si-dhe-kujdesi-per-shendetin-e/>



On May 31, 2023, the Ombudsperson organized a panel discussion on human rights in mental health institutions and correctional institutions, where the challenges faced by these institutions in the treatment of persons with mental disorders were discussed. At the table were also presented the findings from the monitoring of the rights of persons with mental health problems from the visit of the National Prevention Mechanism to the Institute of Forensic Psychiatry of Kosovo (NPMIFPK), the Psychiatric Clinic and the Prison Health Department (PHD) of Ministry of Health. On this occasion, the findings from the visits were discussed, such as: concerns about the treatment conditions, the lack of protocols, the legal gap, about the ambiguity of the status of the Forensic Psychiatry Institution, lack of capacity and insufficient space and poor conditions of accommodation that is not in accordance with the standards, as well as other aspects that may violate the rights and freedoms of persons who need involuntary psychiatric treatment.

The table contributed to the discussion between the responsible institutions to which the recommendations have been addressed and their pledge that they will work diligently to implement the recommendations of the OIK, improve the situation, complete the legal framework as well as increase capacities and create conditions for treatment according to the standards, of persons with mental disorders.



On July 10, 2023, the ombudsperson held a panel discussion regarding state-financed pension schemes, with special emphasis on contribution-paying pensions. In relation to this, in 2018 the Ombudsman issued ex officio Recommendations Report no. 235/2018²⁵⁴, regarding the category of citizens who worked before 1999 and do not benefit from the age-contributory pension, because they do not meet the criteria of 15 years of pensionable service, as a result of discriminatory dismissal. On this occasion, the Government and the Assembly of the Republic of Kosovo were recommended to take measures to change the Law on the financing of pension schemes by the state. As an important step, during the discussions at the table, the approval of the amendment to Law no. 04/L-131 on State-Funded Pension Schemes, in accordance with the Judgment of the Constitutional Court KO190/19, dated January 16, 2023, with which citizens dismissed from work during the 90s, who for this reason had not managed to meet the criterion of 15 years of contribution-paying experience, this right will be recognized through the amendment of this law.



254 <https://oik-rks.org/en/2018/04/06/ex-officio-no-2352018-recommendation-report-of-the-ombudsperson-of-the-republic-of-kosovo-related-to-the-category-of-citizens-who-worked-before-1999-and-do-not-benefit-from-the-age-contribution/>

On December 14, 2023, the Ombudsperson Institution and the Kosovo Disability Forum (KDF) on the occasion of the International Human Rights Day, organized a conference on the topic "Human rights - the role of institutions and society civil society in improving and advancing the rights of Persons with Disabilities".

The conference took place in three discussion panels. In the first panel, the legal framework and challenges in protecting the rights of persons with disabilities were discussed. In the second panel, the focus of the discussion was education and training of persons with disabilities and the findings of the Report with ex officio recommendations 411/2021²⁵⁵, of the Ombudsperson regarding the establishment of the professional assessment and support team for special educational needs for children with disabilities, in which report it was found that 17 municipalities have not established these professional evaluation and support teams, as required by the legislation in force. While in the third panel it was discussed about barriers and physical obstacles of access to sidewalks and public spaces of citizens, especially of persons with disabilities. The findings of the ex-officio Report 648/2021²⁵⁶ of the Ombudsperson were also presented, regarding access to sidewalks, public spaces and the free movement of citizens, as well as respect for the right to a safe and healthy living environment. The report, which is the result of research carried out in the field in the Municipality of Prishtina, Prizren and Ferizaj, highlights the most frequent obstacles and barriers that limit the free movement of citizens, where the lack of tactical elements (87.3%), which will to serve blind people for unassisted and independent movement in the city, then the presence of physical obstacles in the space of sidewalks, which prevent free and independent movement (62.4%) as well

as damage to sidewalk surfaces (31.3%).

The representatives of the public authorities pledged to take concrete measures to address the recommendations of the Ombudsperson, with the aim of avoiding obstacles to free movement and creating public spaces accessible to all.



Education on human rights

The advancement of human rights education has been one of the most important priorities of the Ombudsperson, set for realization in 2023, given the fact that human rights education does not only provide knowledge about guaranteed rights, but it also strengthens citizens' abilities to implement and protect rights in everyday life. For this purpose, various informative sessions and meetings have been held on human rights and the mandate of the OIK, starting with students of lower and secondary schools, up to students and professionals in the fields such as judges and prosecutors.

255 <https://oik-rks.org/en/2022/04/27/the-report-of-the-ombudsperson-ex-officio-no-4112021-with-regard-to-establishment-of-a-professional-assessment-and-support-team-for-special-educational-needs-for-children-with-disabilities/>

256 <https://oik-rks.org/en/2023/09/28/the-ombudsperson-published-the-report-on-the-assessment-of-the-accessibility-of-sidewalks-and-public-spaces/>

Even during the year 2023, the information campaign *"Meet the Ombudsman Institution"* continued, where 37 visits were made to primary and lower secondary schools in the country. Numerous visits have also been made to the rural areas of different regions of Kosovo. The main goal of the campaign is to inform students about the role of the OIK in the protection and promotion of human rights and their opportunity to address human rights violations in the OIK. The campaign also offers children the opportunity to be heard by OIK representatives about various problems they face in everyday life. Among other things, the campaign aims to advance the knowledge of teachers about the mandate of the OIK, especially their awareness of the necessity of preventing corporal punishment in schools as well as respecting the right of children to be heard.

On February 27, 2023, the Ombudsperson participated in the meeting with children of the Prishtina Children's Municipal Assembly group, on the topic *"Children's rights and gender equality"*. In this meeting, the children were informed by the Ombudsperson about his role and mandate, the work and daily activities in defense of children's rights and the complaint procedures that children may have, informing them that the Institution of the Ombudsperson there is a special department that works on children's rights, from promotion and protection to the investigation of complaints. The children also had the opportunity to talk and ask different questions related to the topic of discussion.



While on June 1, 2023, on the occasion of the International Children's Day, the Ombudsperson, Deputy Ombudsperson and

OIK staff visited the primary schools where they were students, talking with students about human rights and the mandate of OIK. On this occasion, the Ombudsperson visited the primary school *"Martyrs of Greikoc"* in Greikoc of the municipality of Suhareka, as well as the primary school *"Motrat Qiriazit"* in Prizren, in which school teaching takes place in three languages, Albanian, Bosnian and Turkish.



On November 17, 2023, on the occasion of the International Day of Tolerance, OIK officials visited the SHFMU *"Zenel Hajdini"* in Pristina to discuss tolerance and human rights, where together with the children they discussed the importance of respecting tolerance in social relations, as a value and principle for respecting diversity, thought, cultures or even different values in society, building the spirit of social understanding and avoiding prejudices in society. The students were also informed about the mandate and powers of the Ombudsperson, regarding the protection and promotion of children's rights, as well as the procedures for accepting and addressing complaints at the OIK.



Also, numerous meetings and lectures on human rights and the role of the Ombudsperson Institution have been held with bachelor and master law students.

On January 26, 2023, the Ombudsman gave a lecture to the students of the program "The European Master's Degree in Human Rights and Democratization (EMA)" based in Vienna, Austria and Venice, Italy. On this occasion, the students were informed about the general state of human rights in Kosovo, about the mandate and powers of the Ombudsperson as well as the institution's work in handling complaints and cooperation with local and international institutions.

On February 22, 2023, the Ombudsperson hosted a meeting with 55 judges and 5 newly appointed prosecutors, who were informed about the mandate and powers of the Institution of the Ombudsperson in the protection of fundamental human rights and freedoms, as well as the manner of treatment and addressing citizens' complaints. They were also informed about the work and activities of the National Prevention Mechanism. With particular emphasis, the challenges of the justice system, the challenges of citizens in realizing their rights, as well as the cases where the Ombudsperson can appear in the capacity of a friend of the court (*amicus curiae*) in court proceedings were discussed.



During 2023, the Ombudsperson held lectures with students of the Faculty of Law at the University of Prizren "Ukshin Hoti", with students of the Faculty of Social Sciences of the Public University "Fehmi Agani" in Gjakova. In these meetings, the students were informed about the mandate and powers of the Ombudsperson in the protection of human rights and the areas of responsibility based on the Law on the Ombudsperson, then about the number of complaints received and how they are handled, as well as about the reports with recommendations to public institutions. During the discussion by the students, many issues were raised for discussion such as: providing the physical infrastructure for free and unobstructed access to the university premises for students with disabilities; conditions and challenges for the education of persons with disabilities; fighting discrimination and strengthening gender equality. At the end, discussion meetings



were held with the rectors of the universities and their collaborators.



On June 21, 2023 – the Ombudsperson held a meeting with 13 interns engaged in the Institution of the Ombudsman (OIK), with the support of the OSCE and implementation of the program by GLSP, who successfully completed their practical work at the OIK.

This program was carried out with the aim of offering the newly graduated in the field of law the opportunity for professional advancement and to develop their practical knowledge in the field of human rights. During this period, the interns had the opportunity to work in professional legal and analytical work for the protection of human rights, an experience which was reflected in the growth of their legal skills and professional skills.



On July 28, 2023, the Ombudsperson met a group of law students, part of the Alternative School for Human Rights, which is organized within the project "Youth for Justice" by the organization Youth Initiative for Human Rights (YIHR), with whom he talked about the work and role of the Ombudsperson in the protection and promotion of human rights. The students were informed about the mandate and powers of the Ombudsperson, but also about the extended powers arising from numerous laws. With special emphasis, they were also informed about the issues handled by the OIK that are related to the rights of children and young people. This activity was foreseen for realization in cooperation with the civil society, within the work plan of the Forum for Dialogue for the year 2023.



On November 13, 2023, the Ombudsperson hosted the newly appointed judges in a meeting, with whom he discussed the role and mandate of the OIK, the challenges of the justice system and the challenges of citizens in realizing their rights. They were informed more closely about the internal procedures for examining complaints in the claims of citizens for violations of human rights, up to the preparation of recommendations for such cases. They also had the opportunity to learn about the mandate and work of the National Mechanism for the Prevention of Torture and other cruel, inhuman and degrading treatment and punishments.



On December 19, 2023, the Deputy Ombudsperson held a lecture with the students of the Faculty of Philosophy of the University of Pristina, "Hasan Prishtina" on the role and mandate of the OIK as well as the way of receiving and handling complaints in the OIK. They were also informed more widely about the mandate of the National Prevention Mechanism, about activities and regular visits to places where persons deprived of their liberty are kept, including police detention, prisons, detention facilities and others, as well as about detention of torture and inhumane treatment as well as local mechanisms for the prevention of torture.



Achievements in the promotion of human rights and equality as well as planning for the year 2024

The Ombudsperson, during 2023, has carried out numerous activities with the aim of raising awareness and informing citizens about human rights and fundamental freedoms. It has also carried out numerous field visits and meetings with citizens, where the citizens were informed directly about the problems and challenges they face in their daily lives. Several meetings were held with representatives of non-majority communities and joint meetings with civil society.

During the year 2023, the Institution of the Ombudsperson has organized 4 thematic discussion tables and 1 conference; 37 visits to primary and lower secondary schools as part of the *Get to Know the Ombudsperson Institution campaign*; 5 lectures with students; 2 informative sessions on the role and mandate of the OIK with newly appointed judges and prosecutors; 1 regional meeting within the informal Advocacy Task Force on gender-sensitive Standards of Safety and Health at Work and Decent Work; 3 meetings with civil society within the Forum for Dialogue between the Ombudsman and CSO as well as numerous field visits to non-governmental organizations that deal with human rights issues and public institutions.

As a result of commitment and dedication to the promotion and protection of basic human rights and freedoms, OIK continues to be ranked as one of the most trusted institutions in the country.

On December 27, 2023, the Democratic Institute of Kosovo (KDI), through a media conference, disclosed the main findings of the assessment of the National Integrity System in Kosovo, for the year 2023. According to the Democratic Institute of Kosovo, the Ombudsperson Institution is ranked among of the three institutions with the highest level of integrity. According to the assessment,

the three institutions with the highest level of integrity are: **National Audit Office** (83.3 nga 100 points), the **Institution of the Ombudsperson** (79.5 nga 100 points), and **Police** (75 nga 100 points).



Even during the year 2024, the Ombudsperson will continue with the undertaking of activities planned for implementation within the Work Plan for the year 2023/2024 of the Forum for Dialogue with Civil Society. Also in focus will be the strengthening of education on environmental rights and the implementation of the activities foreseen for implementation within the work plan for the year 2024 for environmental issues, this plan which was drawn up in cooperation and support of UNDP, with a group of civil society organizations dealing with environmental issues.

Also, during 2024, the information campaign on human rights and the mission of OIK "Get to know the Ombudsperson Institution" will continue, with students and teachers of primary and lower secondary schools. At the same time, during 2024, regular meetings with civil society will continue within the framework of the work of the Forum for Dialogue, as well as thematic meetings in different regions of Kosovo with local civil society organizations and local public institutions.

Cooperation with civil society and public institutions in the country

Even during the year 2023, the cooperation with the civil society in terms of the realization of joint activities for advocacy and protection of human rights has been quite expressed. The Ombudsperson, his Deputies and the entire staff have participated in around 81 discussion tables, 18 conferences, 6 workshops, trainings, public debates and consultative meetings with various topics on aspects of human rights and fundamental freedoms, organized from civil society, public institutions and international organizations in the country. Also during 2023, 2 new cooperation agreements were signed between the Ombudsperson Institution and civil society organizations that deal with human rights.





Within the framework of the project supported by the OSCE, during the year 2023, several thematic meetings were held in different regions of Kosovo, with the aim of strengthening inter-institutional cooperation for a better governance. On this occasion, the Ombudsperson met with representatives of municipalities, representatives of civil society and municipal officials, with whom they discussed the importance of inter-institutional cooperation for the improvement of human rights, good governance and the implementation of the recommendations addressed in the reports of Ombudsperson. Other issues that were raised by those present at these tables were: implementation of the Law on Gender Equality, respect for the rights of persons with disabilities, respect for the rights of non-Shimica communities, employment issues, the problem of citizens of the Valley of Presheva with the lack of identification documents and not obtaining citizenship, and so on.

Such meetings were held in Gjilan, Mitrovica, Ferizaj, Prizren, Pejë, Gjakova and Graçanica.



On February 13, 2023, under the framework of the "Informal Advocacy Task Force on Gender-Sensitive Standards of Safety and Health at Work and Decent Work" led by the Ombudsman, and supported by UN Women, in the Municipality of Prizren, a discussion meeting with representatives of various entities dealing with labor relations

and Occupational Safety and Health. In this meeting, the participants discussed the challenges and problems faced by employees in the current labor market, starting from discrimination based on gender, non-realization of rights derived from maternity leave, mental health issues of public administration employees, non-implementation of the Law on Gender Equality in labor relations, lack of systematic medical checks and support for employees working in dangerous working conditions in general.



On February 21, 2023, on the occasion of the International Mother Language Day 2023, the Ombudsperson together with the Office of the Commissioner for Languages have addressed through a communique to the public, emphasizing the importance of multilingualism and multilingual education. It has been emphasized that the joy of language rights is crucial for the realization of civil, political, cultural and economic rights, defined by international human rights standards, calling on public institutions to respect local laws and international standards when it comes to the right to use of languages.

While on September 26, 2023, the Ombudsperson, together with the Commissioner for languages in Kosovo, marked the European Day of Languages. The purpose of this day was to promote the learning of languages and the linguistic and cultural diversity that we have in our country. On this occasion, citizens who claim that their language rights have been violated were called upon to exercise their right to

appeal, while the authorities ensure that the law on the use of languages is respected.

This activity supported by the Embassy of Great Britain in Kosovo, the Embassy of Switzerland in Kosovo and the International Organization for Migration - IOM was held in Pristina, Prizren and Graçanica.



On March 1, 2023 - the Ombudsperson institution joined the campaign of the organization HANDIKOS, in marking the International Day of Wheelchair Users, with the motto "We move differently, but we are equal!". The carts are also used during the day by the staff of the Ombudsperson Institution, joining the campaign for improving access to public spaces, and creating accessible spaces for everyone.



On May 17, 2023, on the occasion of the International Day Against Homophobia, Transphobia and Biphobia, the Ombudsperson addressed through a public statement, reaffirming his commitment to protect, advance and advocate in favor of the rights of LGBTIQ+ citizens. Under this year's motto "Always together: United in Diversity", the Ombudsperson recalled that all citizens of this country are equal and that the state has the duty to protect their rights guaranteed by the Constitution of Kosovo and the Law on Protection from Discrimination has also drawn the attention of the government and other public authorities, for the obligation they have to protect vulnerable groups from discrimination and to take legal measures to recognize all the rights guaranteed by the constitution.

Also in celebration of this day, the building of the Ombudsperson Institution was illuminated, now for the second year in a row.



On June 16, 2023, the Ombudsperson and his deputy, with the support of the ACDC organization, met with representatives of civil society in North Mitrovica, where they discussed the state of human rights and the situation created after the disturbing events in the north. The Ombudsperson was informed by the representatives of the civil society organizations working in the northern municipalities, on the situation of the residents after the disturbing events in the north of the country, as well as on the issues that are considered challenging for the community, such as the expropriation of properties.

On this occasion, the Ombudsperson has reiterated that it is necessary to establish communication between institutions and citizens, in order to restore calm, the rule of law and order in these municipalities, reiterating the responsibility of the state security authorities for security guarantee and full respect of human rights.



On June 19, 2023, in order to discuss freedom of expression and media freedom in the country, the Ombudsperson visited the Association of Journalists of Kosovo and met the chairman of the Board. In this meeting, the situations of attacks and threats against journalists were discussed, as well as attacks on freedom of expression and freedom of the media, which as such are unacceptable and violate basic human rights and freedoms. Attention was also paid to the discussion on the safety of journalists while reporting from difficult terrains and situations, calling on the responsible public institutions to prioritize the safety of journalists in their work.



On August 9, 2023, the Ombudsperson hosted the mayor of the Municipality of Pristina, Mr. Perparim Rama, in which case they discussed the strengthening of inter-institutional cooperation for a better

governance, other issues in the improvement of public services and the general protection of human rights, as well as the implementation of the recommendations of the Ombudsperson, with purpose of strengthening the protection of freedoms and human rights. Among the many issues discussed were public spaces inaccessible to citizens, stray dogs, waste water collectors, the legalization of facilities without permission, a clean and safe environment for all, etc.

On November 16, 2023, OIK associates, within the Department for Cooperation, Promotion and Reporting of Human Rights, in order to see the possibilities of cooperation for the promotion and education of human rights of students, held a discussion meeting with the Vice-Dean for educational issues and quality and the Vice Dean for clinical education and labor market issues, of the Faculty of Law, of the University of Pristina "Hasan Prishtina". During the visit to the faculty, several copies of the OIK 2022 Annual Report were also distributed, in order to serve the students to be informed about the work and activities of the Ombudsperson Institution. The representatives of the faculty also announced about the new program started in master's studies in English, for human rights and transitional justice, and about the possibility of cooperation between the faculty and OIK in organizing information sessions for students, about the role and mandate of OIK.

On November 20, 2023, on the occasion of the Universal Children's Day, the Ombudsperson hosted the children of SOS village. In this meeting, the children and young people part of the programs of SOS Children's Villages Kosovo, discussed with the Advocate about the work of the OIK, the nature of the complaints received and how to address them, as well as the activities for the protection and promotion of children's rights. At the end of the meeting, the Ombudsperson and the National Director of SOS Children's Villages Kosovo, signed a Cooperation Agreement through which they pledged their commitment to the protection of children.

On the same day, the Ombudsperson, through a communiqué for the public, called on all relevant institutions, including the government, the prosecutor's office, the police and the courts to fulfill their legal obligations to prevent, react and condemn all forms of violence against children, including sexual violence. It also called on the government to allocate adequate resources and implement evidence-based policies and programs that address the root causes of violence and promote the safety and well-being of children.



On December 3, 2023, on the occasion of the International Day of Persons with Disabilities, the Ombudsman, together with the mayor of the Municipality of Pristina and the Director of HANDIKOS, participated in the inauguration of the mural of the activist Faruk Kukaj, who has won the judicial process for discrimination by the Municipality of Pristina, regarding access to public infrastructure. On this occasion, the need for greater institutional effort, to ensure accessible infrastructure for persons with disabilities, as well as greater access to social services, inclusion and participation in society was emphasized.



On December 5, 2023, as part of the "16 days of activism", the campaign against gender-based violence, the Ombudsperson met the football players of the "Prishtina" club, with whom he discussed the role of the Ombudsperson in combating discrimination, in protection of human rights and gender equality.



In the framework of activities and efforts to promote a safe, clean and healthy living environment, OIK has also participated in the United4Future conference, where environmental problems in the country and especially challenges with waste management were discussed. On this occasion, the multi-year work of the Institution of the Ombudsperson was presented in raising the awareness of citizens and public institutions in environmental protection, public participation in decision-making and addressing various reports about waste and landfill management issues.



On December 5, 2023, the Ombudsperson participated in the round table discussion with civil society organizations in the region of Peja, which was organized by the Advocacy Center for Democratic Culture (ACDC). The roundtable aimed to raise awareness and understanding of human rights issues on the ground from the perspectives of affected communities and facilitate close cooperation between the OIK and civil society organizations in the region. During the roundtable, the participants were exposed to a number of problems faced by the citizens of the region of Peja, including social issues, inclusiveness, the need for a stable budget for organizations that provide social services to vulnerable groups, including children with disabilities, the employment of persons with disability, respect for language rights, and a number of other issues that will be addressed by the OIK in accordance with the constitutional and legal mandate.



On December 10, 2023, on the occasion of the International Human Rights Day, the Ombudsperson participated in the unveiling of the mural "Hate Speech is not Freedom of Expression", in co-organization with the Youth Initiative for Human Rights - Kosovo

(YIHR KS). The activity was aimed at sensitizing public opinion about the danger that hate speech can present in inter-societal relations, while calling on all public institutions to be more careful in establishing standards that prevent and minimize the consequences that language can cause of hatred.



On December 13, 2023, the Ombudsperson participated in the signing ceremony of the Memorandum of Understanding between the municipalities of the region of Gjilan and Ferizaj, and the centers for the protection of women and children "Liria" and "My Home", in which case the municipalities pledged to partially cover the expenses for the shelters in question. This activity was aimed at the joint action of institutions to fight domestic violence and gender-based violence.



During 2023, the Ombudsperson has held numerous meetings with citizens and field visits, where citizens have been directly informed of their concerns about violations of basic human rights and freedoms.

On February 21, 2023, the Ombudsperson met the residents of the northern part of Mitrovica, in the part where 65 houses were engulfed by water as a result of the floods that occurred in January 2023. The Ombudsperson saw closely the situation created on the ground as a result of floods and talked with the residents about their complaints about addressing this problem. The Ombudsperson also met the assembly men of the Municipal Assembly of Northern Mitrovica.



On March 9, 2023, the Ombudsperson met the citizens of the Municipality of Leposaviq, with whom he discussed various topics, starting with the concerns raised by the citizens about the security situation; the expropriation of some properties and the opposition that citizens are making to this process, for which the OIK has already received a complaint. Also at this meeting, it was discussed about the decision of the Government of Kosovo to declare real estates of special public interest, considering them as areas of public interest located in the villages of Dren and Leshak, in the Municipality of Leposaviq.



Representatives of the Ombudsperson Institution in the wake of meetings with citizens, on March 30, 2023, in cooperation with the non-governmental organization "ROMTEGRA", held a meeting with citizens from the Roma, Ashkali and Egyptian communities in the city of Mitrovica. They also visited some families from these communities, where they became more familiar with their challenges and concerns, as well as the lack of basic living conditions, the severe economic and social situation, the high level of unemployment, as well as claims of discrimination by the authorities municipal etc. The large presence of waste on the street but also in the basements and entrances of collective housing is considered quite disturbing, for which immediate action of the municipal authorities is requested.



On March 9, 2023, the Ombudsperson also visited the village of Gremnik in the Municipality of Klina, where he met and talked with the residents of the village. The Ombudsperson has heard the concerns of the citizens regarding the construction of the cement factory near the village and that according to the residents, the operation of these quarries, for the supply of raw materials for the cement factory, is considered harmful to the health of the residents, environmental degradation, the destruction of flora and fauna, numerous underground water resources and cultural heritage. Residents also emphasized the lack of information from the municipality about the progress of the procedures related to the issue. After the discussion, the Ombudsperson together with the residents visited the place where the cement factory is planned to be built.



On June 23, 2023, the Ombudsperson met the residents of several neighborhoods of the city of Pristina who have submitted complaints to the OIK, regarding the parking lots in public properties, which are managed by "Prishtina Parking". The Ombudsperson visited the neighborhoods of the city such as: Bregu i Dielli (Vëllezërit Gërvalla street, hirta flats) and Center (streets: Simon

Shiroka, Rexhep Luci, Nurije Zeka and Luan Haradinaj). The Ombudsperson discussed with the residents about the new regulation for parking management from "Parking Prishtina", which is expected to enter into force soon. The Ombudsperson informed the complainant that he will continue to follow up on the issue of the regulation on the organization and use of parking lots of the Municipality of Pristina, and once it enters into force, it will be assessed whether its provisions will violate the rights of residents and he will act in accordance with the mandate and authorizations it has.



On October 5, 2023, the Ombudsperson, together with his colleagues, in accordance with his mandate and responsibilities, visited the village of Janjevë, in the Municipality of Lipjan, in order to personally see the situation on the ground, presented in the individual complaint of some residents of this village. On this occasion, the lawyer discussed with the residents of the village about some problems that the residents are currently facing, such as: the situation with the water supply and sewerage; old abandoned houses, some of which have already collapsed, while others are in danger of collapsing, which also poses a risk to neighboring inhabited houses and to the movement of people; then the village roads are damaged and difficult to pass, etc. The Ombudsperson has called on the competent bodies to urgently react in accordance with the powers they have and to take measures to improve the situation in the village of Janjevë.



Forum for Civil Society Dialogue

The Forum for Dialogue between the Ombudsperson and Civil Society, founded in 2021, has already managed to play a key role in the initiatives and efforts for the protection and promotion of human rights in the country, in which case civil society is also appreciated the close cooperation of the Ombudsperson so far with civil society in handling and addressing issues of vital interest for human rights. It should be emphasized that this initiative and this cooperation is increasingly appreciated, even in the most important international reports for the country and the institution. During the year 2023, the Forum for Dialogue held two regular working meetings and one ad-hoc meeting according to the request submitted by the civil society.

The first regular meeting of the Forum was held on July 13, 2023. During the meeting, the Work Plan of the Forum for the year 2023/2024 was reviewed and approved, as well as joint activities were discussed and planned, in order to contribute to the promotion, the protection and respect of human rights in the country. As a result of the proposals received from the civil society at the Forum meetings, as an issue that needs to be addressed, the Ombudsperson has initiated, according to his official duties, an investigation that deals with the research of the mental health of the population in the country, over the age of 65. In this meeting, the Forum took a common position, agreeing on joint advocacy on current issues from the field of human rights, with the aim of advancing respect for fundamental human rights and

freedoms. Immediately after the end of the meeting, the Ombudsperson and the Forum of Civil Society Organizations came out with a joint position on the punishment and physical violence that occurred during the session of the Assembly of the Republic of Kosovo on July 13, 2023, on the same day when the regular working meeting of the Forum was held.



The Ombudsperson and civil society organizations called on everyone to refrain from language that incites hatred and violence, to pay attention to creating an environment of respect, tolerance and constructive debate that helps fulfill the mission to represent the interests of the people and the country.

While on November 14, 2023, the second regular working meeting for the year 2023 of the Dialogue Forum was held. In this meeting, activities carried out during 2023 between the Ombudsperson Institution and Civil Society Organizations were reviewed, and some activities were also planned that will continue to be carried out during 2024, within the framework of the Forum's work plan.

Initiating investigations into various issues, such as the treatment of the language used in high school textbooks, the protection of the right to a safe, accessible and clean living environment for everyone, the protection and respect of the rights of persons with disabilities were some of the topics recently addressed by the Ombudsperson, which were part of the discussions at the Forum. Another issue that has been raised by civil society, with a request for priority treatment and promotion, are the environmental issues, for which together with the organizations that deal with environmental issues and that are also part of the Forum for Dialogue, a work plan has been drawn up for the year 2024, where we will work with joint activities for the promotion and protection of the environment in the country.

International cooperation

In a world with an interconnected system, where the challenges of a given country also affect the world level, National Human Rights Institutions (NHRIs) serve as important pillars for promoting cooperation. These institutions act as a bridge in overseeing the effective implementation of international human rights obligations, facilitating dialogue and joint initiatives related to human rights, democracy and the rule of law. They play a crucial role in promoting good practices, sharing experiences and addressing common challenges faced by countries.

During 2023, OIK was active in the international sphere, with the aim of strengthening cooperation with counterpart institutions and with various international organizations and networks, including those in which it is already a member. Within these activities, he participated in 38 international meetings, some of which were held virtually, as listed chronologically in the following table.

No.	Description of the activity	Date	Organizer
1.	International Conference "The future of human rights in the 21st century Istanbul, Turkey	11-12 January 2023	Ombudsperson of Turkey
2.	Regional Conference on "Models for the inclusion of minorities and vulnerable groups in the Western Balkans - Exchange of expertise and recommendations for improved policy making" Skopje, Macedonia	17-18 January 2023	Association of Kosovo Municipalities/ NALAS Project
3.	Meeting of the World Alliance for National Human Rights Institutions (GANHRI) Geneva, Switzerland	14-16 March 2023	GANHRI
4.	Extraordinary Meeting of the General Assembly of the European Network of National Human Rights Institutions (ENNHRI) Online	11 April 2023	ENNHRI
5.	Official visit to human rights institutions in Bulgaria Sofia, Bulgaria	26-28 April 2023	IPA project
6.	Study visit to the European Court of Human Rights Strasbourg, France	22-23 May 2023	IPA project
7.	Meeting of the ENNHRI Working Group on Asylum and Migration Athens, Greece	23-24 May 2023	ENNHRI

8	The 12th Meeting and General Assembly of the Association of Ombudspersons of the Mediterranean (AOM) on the theme: "Integrity and independence of Ombudsperson institutions - sustainability in the midst of challenges" Pristina, Kosovo	24- 25 May 2023	OIK/AOM
9.	Regional Forced Return Monitoring Training Fiumicino, Italy	22-26 May 2023	FRONTEX
10.	Seminar of the European Network for the Rights of the Child (ENOC) Stockholm, Sweden	29-30 May 2023	ENOC
11.	First meeting of the Equinet Standards Project Working Group Online	31 May 2023	EQUINET
12.	The meeting of the Network of NPMs of South-Eastern Europe on the topic "Monitoring of mental health in correctional institutions" Thessaloniki, Greece	1-2 June 2023	Ombudsperson of Greece
13.	Webinar with the National Prevention Mechanisms of the continent of Europe, with the topic "Strengthening the role of NPCs in the prevention of torture" Online	7 June 2023	SPT
14.	Regional seminar on "Strengthening the mandate of equality bodies: handling individual redressal of cases of discrimination and hatred and facilitating access to justice for victims" Vlora, Albania	15-16 June 2023	European Council
15.	15th International Conference of Ombudsmen for the Armed Forces Vienna, Austria	19-20 June 2023	DCAF
16.	Academy of National Institutions for Human Rights Skopje, North Macedonia	19-23 June 2023	ENNHRI/ODIHR
17.	Meeting regarding the amendment/ completion of the Statute of ENNHRI Online	9 August 2023	ENNHRI
18.	Informative session on the topic: " <i>Artificial intelligence - potential opportunities and impact for IKDNJs.</i> " Online	14 September 2023	ENNHRI

19.	Second meeting of the Equinet Standards Project Working Group Online	20 September 2023	EQUINET
20.	27th Annual Conference and General Assembly of the European Network of Ombudspersons for Children (ENOC) Brussels, Belgium	19-21 September 2023	ENOC
21.	International Conference in honor of the celebration of the establishment of the Ombudsperson of Montenegro Podgorica, Montenegro	27-29 September 2023	Ombudsperson of Montenegro/OSBE
22.	Meeting of the Cooperative Platform between CoE-FRA-ENNHRI-EQUINET regarding Social and Economic Rights Helsinki, Finland	27-29 September 2023	CoE- FRA-ENNHRI-EQUINET
23.	Celebrating the 10th anniversary of the foundation and the General Assembly of the European Network of National Human Rights Institutions (ENNHRI) Brussels, Belgium	9-10 October 2023	ENNHRI
24.	Annual General Assembly of the European Network for Equality Bodies (EQUINET) Brussels, Belgium	11 October 2023	Equinet
25.	Consultative meeting regarding the preparations for the listening session in the European Parliament on the rule of law in developing countries Online	25 October 2023	ENNHRI
26.	International Conference "The right to good administration: Myth, Aspirations and Reality?" Valletta, Malta	31 October-1 November 2023	Ombudsperson of Malta/AOM
27.	The 14th Annual Conference of National Human Rights Institutions on the theme: "Torture and other ill-treatment: The role of National Human Rights Institutions" Copenhagen, Denmark	6-8 November 2023	GANHRI Danish Institute for Human Rights Parliamentary Commissioner for Human Rights of Ukraine
28.	The 10th regional forum for the rule of law, with the theme: "Judges and data protection" Sarajevo, Bosnia and Herzegovina	10-11 November 2023	AIRE Centre & Civil Rights Defenders

29.	Meeting of the Equinet Working Group on the rights of persons with disabilities Online	17 November 2023	EQUINET
30.	Equinet Age Working Group Meeting	17 November 2023	EQUINET
31.	United Nations Confidence Building Forum in Kosovo: In support of solidarity for a better future Thessaloniki, Greece	21-23 November 2023	UNMIK
32.	Training of Trainers for access to justice for LGBTI persons in the Western Balkans Tirana Albania	30 November-1 December 2023	World Bank /ERA
33.	Capacity building seminar on artificial intelligence Ljubljana, Slovenia.	30 November -1 December 2023	ENNHRI
34.	Meeting of the European Group of member institutions of the International Institute of Ombudspersons (IOI) Online	4 December 2023	IOI
35.	Marking the 20th anniversary of the institution of the Ombudsman of Montenegro Podgorica, Montenegro	11 December 2023	Ombudsperson of Montenegro
36.	Annual Meeting for the Exchange of Information on the Charter of Rights of the European Union. Online	11-13 December 2023	European Union Agency for Fundamental Rights (FRA)
37.	Working Dinner of the Organization "Iniciativa e Re Sociale" Tirana, Albania	21 December 2023	Organization "Iniciativa e Re Sociale"

Table: Participation in international meetings

Cooperation with peers and other international organizations

National Human Rights Institutions expand their scope and influence by actively participating in international meetings and activities. Through these meetings, HRDs shape the standards that guide our collective human rights efforts.

Cooperation with counterparts on a global scale enables the exchange of knowledge and expertise, addresses human rights challenges in a more comprehensive way, transforming state efforts into international coordination.

In this reporting period, since the OIK is a member of the most important international networks for human rights, it has participated in many international meetings, some of which we present below.

On January 11 and 12, 2023, the Ombudsperson participated in the two-day conference on the topic "The Future of Human Rights in the 21st Century" which was organized by the Ombudsperson of Turkey. In this conference, with the participation of Ombudspersons from many countries of the world, changes and developments in the field of human rights were discussed, taking into account the rapid developments in the first quarter of the 21st century. Special attention was paid to the responsibilities and role of the Ombudsperson as well as his contribution to the protection and development of human rights in the 21st century as well as the effect of digitalization on human rights. In his speech, the Ombudsperson spoke about the mandate of the OIK regarding the topics covered by the conference, as well as the challenges and achievements so far.

On March 14-16, 2023, OIK participated in the Annual Meeting of the World Alliance of National Human Rights Institutions (GANHRI)²⁵⁷, which was held in Geneva, where it brought together human rights institutions from all over the globe. . This year, this meeting marked the 30th anniversary of the Paris Principles and the establishment of this global network of IKDNJ, as well as the 75th anniversary of the Universal Declaration of Human Rights. The meeting was an essential call for addressing human rights that require rapid intervention in the focus of the actions of HRDs, which are established and exercise their role in compliance with the standards established by the Paris Principles. This annual meeting was an opportunity to reflect on the current state of human rights and the importance of the Universal Declaration. In the current context, it provided a global platform to showcase the experiences and contribution of HRDs in the protection of human rights and the activities, priorities and needs for the implementation of the mandate in compliance with the Paris Principles. The participation of the Ombudsperson of the Republic of Kosovo in this meeting, among other things, has enabled him to meet with counterparts from around the world and to discuss mutually relevant issues.



Photo from attending GANHRI's annual meeting

²⁵⁷ Global Alliance of National Human Rights Institutions - GANHRI (Global Alliance of National Human Rights Institutions), is an international organization of institutions dealing with human rights, which operates under the umbrella of the United Nations. It promotes and empowers these institutions to comply with the Paris Principles, lead the promotion and protection of human rights, and serve as a collective, relevant and constructive voice in addressing the impact of today's complex and multiple crises. facing the world in human rights. More on: <https://ganhri.org/>

In addition to the annual meeting of this organization, on November 6-8, 2023, OIK participated in the 14th Annual Conference of National Institutions for Human Rights, which this year dealt with the topic: "Torture and ill-treatment: The role of national institutions on Human Rights", which was co-organized by GANHRI, the Ombudsperson of Ukraine and the Danish Institute for Human Rights and was held in Copenhagen, Denmark. The conference focused on the role of ICTY in addressing and preventing torture and was an opportunity to reaffirm individual and collective commitment to ensuring the rights of all persons to be free from torture and ill-treatment. At the end of the conference, the Kjevi-Copenhagen Declaration was adopted²⁵⁸, which sets out a series of practical actions that HRDs can undertake as part of their work to promote, prevent and protect against torture and ill-treatment.

This year, OIK also participated in a series of meetings within the networks it is a member of, below we will mention some of them.

On April 11, 2023, OIK participated in the Extraordinary Meeting of the General Assembly of ENNHRI, which aimed to review the membership status of the Commissioner for Human Rights of the Russian Federation, held online. This meeting was called following a proposal by the ENNHRI Board to exclude the Russian NIHR from ENNHRI membership. After a discussion between the members from the representative states, the question of the expulsion of the IKDNJ of Russia was put to a vote and as a result the General Assembly decided to exclude it from the membership of ENNHRI, because this institution had acted contrary to its principles and obligations of membership in this network.

On October 10, 2023, ENNHRI marked the 10th anniversary of its establishment with a special conference in Brussels, in which OIK

also participated. It brought together ENNHRI members from over 40 countries and partners from across Europe and discussed the joint journey and achievements of ENNHRI and HRDs, but also how HRDs and the wider European human rights community can engage with the highest priority human rights issues and how they can address future challenges together. The *first panel* of the conference addresses the issue of how the advocacy space and human rights as well as the institutions that protect them can be strengthened in the context of war and security, while the *second panel* addresses the challenges of human rights in the context of digitalization, artificial intelligence and climate change.

Also this year, ENNHRI published the Report on the State of the Rule of Law in Europe²⁵⁹, which presents the perspective of all member institutions of this network, on the state of the rule of law in their countries, based on the monitoring and collection of data from the institutions member, including the part for Kosovo, according to the report sent by the Ombudsperson Institution of the Republic of Kosovo²⁶⁰. Every year, National Institutions for Human Rights (NIHR), members of ENNHRI report on the state of the rule of law and human rights in their jurisdiction, which are collected to identify regional trends and recommendations related to the rule of law. The findings of this year's report speak to the ongoing challenges affecting the European rule of law and human rights environment, underscoring the inconsistency of state authorities to meet the specific recommendations of HRDs regarding the rule of law. The report also emphasized the need to implement the recommendations of international organizations such as the European Union, the Council of Europe and the United Nations.

258 GANHRI, The Kiev-Copenhagen Declaration, https://ganhri.org/wp-content/uploads/2023/11/Kyiv-Copenhagen-Outcome-Declaration_EN.pdf

259 ENNHRI, Report on the Rule of Law in Europe, <https://bit.ly/3LjvZsq>

260 ENNHRI, Report on the Rule of Law in Kosova, <https://bit.ly/3PzxCVv>

In addition, this year, ENNHRI published an evaluation study²⁶¹ regarding the implementation of the Recommendation of the Council of Europe for NIHRs,²⁶² which represents a golden standard for NIHRs. This report reflects the general state of the operation of KPIs in Europe, and in terms of challenges and issues for which improvement is needed, it lists: Implementation of a transparent, meritorious and pluralistic process regarding the election and appointment of PKI leaders, ensuring adequate financial and human resources and increasing them in the event of the extension of the mandate, as well as the implementation of the recommendations of NIHR effectively and within reasonable time limits.

In the wake of participation in regional initiatives, on September 27-29, 2023, OIK participated in the 13th Meeting of the Collaborative Platform of the Council of Europe (CoE), the European Network of Equality Bodies (EQUINET), the European Network of National Institutions of Human Rights (ENNHRI), the European Union Agency for Fundamental Rights (FRA) for economic and social issues²⁶³, with the theme "Realization of social rights in the age of digitalization: opportunities and risks", which was held in Helsinki Finland. This meeting aimed to discuss the impact of new technologies on the labor market, the impact of digital access on social services, ways to ensure equal access to digital tools, services and education, as well as the role of human rights defenders. human in preventing and mitigating the negative impact of artificial intelligence and digitalization of social services.

The Ombudsperson, within the mandate as an equality body, on October 11, 2023 participated in the General Assembly of

the European Network of Equality Bodies (EQUINET), where, in addition to the internal issues of the network, the special website of the members of network, in which valuable information about everyone's work will be exchanged. Within this meeting, the application for membership by the Parliamentary Commissioner for Human Rights of Ukraine was also voted on, who received the necessary votes from the members for membership in this network. In addition, during this meeting, the Work Plan and Budget of this network for 2024 were approved. In addition to this event, the OIK throughout the year also participated in many other meetings of working groups created within this network, which influenced the exchange of valuable information related to various topics of equality and protection from discrimination.

As we announced in last year's report, OIK in September 2022 joined the European Network of Ombudspersons for Children (ENOC), therefore this year, on September 19 - 20, 2023, OIK representatives participated in the General Assembly and the 27th Conference of the Network of Ombudspersons for Children's Rights (ENOC) entitled "The power of independent institutions for children's rights: protecting children's rights in Europe". The event took place at the Flemish Parliament in Brussels, Belgium. The conference aimed to explore the role of Independent Children's Rights Institutions in protecting and promoting children's rights across Europe. During the workshops within the conference, updates were provided on the work of all ENOC members on various topics. In this framework, the work of OIK in the protection of children's rights, achievements, challenges and goals for the future were presented. Within the activities of the same network, on May 29-

261 ENNHRI, Evaluative study related to the implementation of the Recommendation of the Council of Europe for NIHR, https://ennhri.org/wp-content/uploads/2023/11/ENNHRI-Baseline-Intro_Methodology_Cross-Regional-Overview.pdf

262 Council of Europe, Recommendation of the Council of Europe on NIHR, available at: https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a1f4da

263 More about this collaborative platform in this link: <https://www.coe.int/en/web/european-social-charter/coe-fra-ennhri-equinet>

30, 2023, OIK also participated in the Spring Seminar, which was held in Stockholm, Sweden. The seminar was divided into two sessions, where the first session dealt with the topic "The Role of Independent Institutions for Human and Children's Rights (ICRI) in the Protection and Promotion of Children's Rights", while the second session aimed capacity building in the protection of children's rights in times of crisis (economic, health, climate, war, etc.).

On October 31 - November 1, 2023, the OIK participated in the international conference on "The right to good administration: Myth, aspiration or reality?", organized by the Association of Mediterranean Ombudspersons (AOM) in cooperation with the Parliamentary Ombudsperson of Malta, held in Valletta, Malta. The purpose of this conference was to discuss the role of Ombudsperson for the right to good administration, promoting and ensuring that public administration acts in a transparent and accountable manner and treats citizens fairly and without discrimination. In the framework of joint meetings with his counterparts, Mr. Qelaj had the opportunity to share the experience of the institution related to good administration²⁶⁴ the advanced legal framework which is applicable in Kosovo, as well as the work of the institutions that guarantee the implementation of the principles of good administration in our country. At the end of the meeting, the Malta Declaration on Good Governance was adopted which recommends all state authorities of the Mediterranean region countries represented in the AOM to recognize the right to good governance in their legislation and policies and to implement it.

For the OIK, it is also very important to raise the capacities of the staff and exchange information and good practices with other homologous institutions, therefore this

year, with this goal in mind, two study visits were carried out²⁶⁵. *The first visit* was held in Bulgaria on April 26-28, 2023, with a focus on the exchange of information related to the supervision of public administration, in the framework of which the delegation met representatives from the counterpart institution in Bulgaria as well as representatives of the Bulgarian Institute for Public Administration. *The second visit* was held in Strasbourg, France, on May 21-24, 2023, and was aimed at building the capacities of staff related to the work of the main human rights institutions there, including the Office of the Commissioner for Human Rights of The Council of Europe, the Department for the Execution of Judgments of the ECHR and the European Court of Human Rights.

The OIK prioritizes international cooperation and will continue to be present in various international meetings and forums, which will influence the strengthening of advocacy for human rights, the exchange of experiences and contribute to the world dialogue on issues important human rights.

264 AOM, Malta Declaration on Good Governance, available at: <https://ombudsman-med.org/wp-content/uploads/2023/11/Malta-Declaration.pdf>

265 This visit was organized within the framework of the IPA project: "Support for the Ombudsman", financed by the European Union.

Membership of international organizations

The international mechanisms where the OIK is a member:

No.	The network/Mechanism	Year of membership
1.	European Ombudsman Institute (EOI)	2002
2.	South East European Network of Ombudspersons for Children (CRONSEE)	2009
3.	International Institute of Ombudspersons (IOI)	2012
4.	European Network of National Human Rights Institutions (ENNHRI)	2013
5.	Association of Ombudspersons and Intermediaries of the Francophonie (AOMF)	2015
6.	International Conference of Institutions of Ombudspersons for the Armed Forces (ICOAF)	2015
7.	Association of Ombudspersons of the Mediterranean (AOM)	2016
8.	Network of Ombudspersons for the Environment and Human Rights ²⁶⁶	2017
9.	European Network of Equality Bodies (EQUINET)	2019
10.	European Network of Ombudspersons for Children (ENOC)	2022

Table: List of memberships of OIK in international networks

The OIK is also invited and participates in the activities of some other mechanisms and networks, in which due to political barriers it

is only an observer member, as in:

World Alliance for National Institutions for Human Rights - GANHRI (from which the compliance of NHRIs with the Paris Principles is examined)²⁶⁷;

Network of National Mechanisms for the Prevention of Torture of Southeast Europe - SEE NPM (within which the OIK participates in various meetings aimed at cooperation, promotion and exchange of experience in the field of protection of human rights persons deprived of their liberty).²⁶⁸

Reporting to various international mechanisms

Every year, OIK receives questionnaires on different topics from international organizations to report on the state of human rights in Kosovo. Also this year several requests for reports and questionnaires were sent which are listed in the table below.

²⁶⁶ This network was established in 2017 and is signed by the following countries: Bosnia, Croatia, Kosovo, Montenegro, Macedonia, Serbia and Slovenia

²⁶⁷ A condition for membership in this organization is Kosovo's membership in the United Nations.

²⁶⁸ A condition for membership in this regional network is Kosovo's accession to the Optional Protocol to the Convention against Torture.

Date	Subject of the report/research	Organization/institution to which the report was sent
18 January 2023	Answer regarding the effective investigation related to the actions of the police - the legal regulation in Kosovo	National Mechanism for Prevention/Ombudsperson of Croatia
27 January 2023	Answer regarding old-age pension rights when the person has been detained or sentenced	National Preventive Mechanism/Ombudsperson of Georgia
31 January 2023	Answer regarding the legal regulation in Kosovo regarding ensuring the independence of investigations related to the unethical behavior of police officers, including towards irregular migrants	Working group for Asylum and Migration/ENNHRI
21 February 2023	Answer regarding the experience of OIK regarding the work of Equality Bodies in cases without an identifiable victim: Actio popularis and how do equality bodies use actio popularis?	Slovak National Center for Human Rights
20 March 2023	Answer to the questionnaire regarding the permissibility of personal technical devices (eg mobile phones, tablets, laptops) in places of detention for foreigners	Estonian National Human Rights Institution
18 April 2023	Response to the ENOC questionnaire regarding good practices in the protection and promotion of children's rights	European Network of Ombudspersons for Children (ENOC)
17 July 2023	Response to Equinet's questionnaire regarding the mandate of equality bodies and their work in addressing recommendations to policy makers from an equality and non-discrimination perspective, in relation to legislation, policies and the policy-making system ²⁶⁹	European Network for Equality Bodies (Equinet)
31 July 2023	Response to the ENOC questionnaire on the use of mobile devices (mobile phones) in schools	European Network of Ombudspersons for Children (ENOC)
6 October 2023	Response to the questionnaire regarding the funding regulations and procedures of equality bodies	Office of Equal Opportunities/Ombudsperson of Lithuania
14 November 2023	Answer regarding the request for sending documents regarding the legal basis, annual and special reports as well as other materials of OIK for inclusion in the Virtual Library of AOMF	Association of Ombudspersons and Intermediaries of the Francophonie (AOMF)
8 December 2023	Response to Equinet's questionnaire regarding the work of Equality Bodies in the field of education	European Network for Equality Bodies (Equinet)

Table: List of reports sent to international organizations

²⁶⁹ The information sent by the OI regarding this issue is included in the Equinet publication entitled: Policy Agenda Briefing: Equality Bodies in Addressing Recommendations, accessible at: <https://equineteurope.org/publications/informing-the-policy-agenda-equality-bodies-making-recommendations/>

12th Meeting of the General Assembly of the Association of Ombudspersons of the Mediterranean (AOM)



The Institution of the Ombudsperson was the host, in co-organization with the Association of Ombudspersons of the Mediterranean (AOM), of the 12th Meeting of the General Assembly, which was held on May 24-25, 2023 in Pristina, Kosovo.

The Association of Ombudspersons of the Mediterranean (AOM) was established in 2008 in Marseille, France with the aim of promoting democracy, the rule of law and social peace in the Mediterranean region. It works for the advancement of respect for human rights and international cooperation with other organizations that are dedicated to the promotion and protection of human rights. OIK is a member with full rights in this Association since 2016.

The main topic of the conference within this meeting was: *"Integrity and Independence of Ombudsperson Institutions - Sustainability in the midst of Challenges"*, which aimed to create an opportunity to discuss the standards created for the independence of the NHRI as a fundamental element of a the effective institution of the Ombudsperson, the mapping of the type of threats and challenges they faced, as well as the possibilities and best practices of an effective response to them.

This meeting was co-organized by OIK and AOM and was held in a hybrid format. Ombudspersons and representatives from Albania, Bosnia and Herzegovina, Cyprus, Finland, Greece, Israel, Malta, North Macedonia, Palestine, Slovenia and Turkey and other participants from the Mediterranean region participated through the online platform as: Croatia, Egypt, Kingdom of Monaco, Denmark, Belgium and Italy.



The opening ceremony of the conference on the topic: *"Integrity and Independence of Ombudsperson Institutions - Durability in the midst of Challenges"*, was opened by the host of the event, *Mr. Naim Qelaj*, Ombudsperson of the Republic of Kosovo. In

his welcome speech to the guests, some of whom were in Kosovo for the first time, he emphasized his gratitude to AOM for the lesson given to the Kosovo Ombudsperson Institution for organizing this important network meeting. He emphasized that Kosovo is the best example of the success of a society and a state, which is committed to being a country of equal citizens, where human rights and freedoms are at the center. As a country that emerged from the war 23 years ago, the balance of which was ruin and destruction, civilian victims killed, missing persons, expulsion of 1/3 of the population forcibly removed from the country, with damages and consequences that can hardly be imagined let alone calculated, it is important that our international friends see the progress that has been made for the rule of law, democracy and sustainable peace. He further spoke about the establishment of the Ombudsperson Institution immediately after the war and its journey over two decades. He said that *"The Constitution of the Republic of Kosovo has given a constitutional character to the Ombudsperson and has established high standards that guarantee the independence of the institution in accordance with the Principles of Paris and the Principles of Venice. Today the institution enjoys full organizational, administrative and financial independence."* In his presentation, the Ombudsperson showed in detail the legal regulation of the institution and the advanced standards regarding the issue of integrity, independence, the obligation to cooperate, however he also mentioned the challenges with which he faces.



Mr. Andreas Pottakis, President of AOM and Ombudsperson of Greece, in his speech stated that he is impressed by the progress made in Kosovo throughout these years, the warm welcome he received in Kosovo as well as the constitutional authority that has been given to the Advocate of To the people of Kosovo, with expanded powers and a high level of integrity and independence, stating that this institution can have greater compliance with the standards defined in the Venice Principles than many other counterpart institutions in Europe. He further adds that it is very important to guarantee the independence and integrity of the Ombudsperson institutions because they have additional duties and a very special role to ensure not only the rule of law, democracy and good administration at the national level, but also the compliance of implementation of the local legal framework with the requirements of international law.



After the speeches of the hosts of this event, the main speaker of the opening ceremony, *Mrs. Gresa Caka Nimani, President of the Constitutional Court of the Republic of Kosovo*, who welcomed the work of the Ombudsperson to be the host of this regional meeting. She added that Kosovo, as the youngest republic among the states represented at this meeting, best reflects the importance of the Ombudsperson institution in advancing the rule of law and democratic values. She emphasized the important role that the Constitution gives to the Ombudsperson in Kosovo, as the only non-political and non-judicial institution that has the right to refer cases to the Constitutional Court and mentioned several important cases

that have been initiated by this institution, which have set essential principles of checks and balances of powers. Through these cases, a consolidated judicial practice has been created, which emphasizes that the executive power during policy-making must take into account the special standards for the Ombudsperson Institution, the Constitutional Court and other independent institutions and respect their guaranteed independence. In the end, she added that: *"The sustainability of the Ombudsperson institutions also means the sustainability of democracy and the challenges of this institution are simultaneously challenges of democracy"*.



The Ombudsperson of the Republic of Albania, **Mrs. Erinda Ballanca**, in her speech, emphasized that the independence of NIHR is of fundamental importance because they should not only be independent, but also be perceived as such in the eyes of the public, because public trust is very important for institutions national for human rights.

Head of the Accreditation Sub-Committee (GANHRI) and General Director of NIHR Palestine, **Dr. Ammar Dwaik**, emphasized that the concept of independence is not an abstract concept, but a practical one, between which the credibility, legitimacy and effectiveness of NIHR are measured. For these institutions, it is not only important to guarantee formal independence, but also to be perceived as such.

The Ombudsperson of the Republic of Turkey, **Mr. Şeref Malkoç**, emphasized that the basic criterion for an NIHR institution

to be effective is to be independent and impartial, and also to act in a transparent, fair and equal manner, therefore it is important that independence is guaranteed in practice, not only by law. In the end, he expressed his gratitude to the Republic of Kosovo for the support given after the earthquake that happened in Turkey.



Ombudsperson of the Republic of Croatia, **Ms. Tena Šimonović Einwalter**, in her address, said that multi-mandate Ombudsperson Institutions are a vital part of the state architecture for human rights and as such play an essential role in the consolidation of democracy, the rule of law and human rights, but in so that they can be effective and have an impact, states must create an environment suitable for their operation.

The Ombudsperson of Malta, **Mr. Joseph Zammit McKeon**, emphasized the Ombudsperson's relationship with the parliament, adding that the lack of a substantive debate on the Ombudsperson's reports often hinders their effectiveness. He suggests that Parliament should adopt a procedure for reports so that they are addressed in a timely manner.

Cyprus Ombudsperson, **Mrs. Maria Stylianou-Lottides**, said that any threat to the institutions of the Ombudspersons represents a direct threat to democracy and the rule of law, therefore it is important that states provide unimpeded protection to the Ombudspersons and their staff, so that they are able to exercise their mandate without interference. She added that the Paris

Principles have made the criteria regarding independence clear, and have also increased protection against threats and interventions.

The deputy of the Ombudsperson of North Macedonia, **Mrs. Suzana Salihu**, in her speech, listed the challenges that this institution faces, including the non-election of the Ombudsperson's deputies, the lack of financial resources and the failure to discuss the annual report on time. She finally added that NIHR and Ombudspersons should communicate more with each other and international networks in order to better respond to threats.

The Ombudsperson of Bosnia and Herzegovina, **Mrs. Jasminka Dzumhur** said that determining the independence of a national institution for human rights is based on the fact that the institution in exercising its mandate should not receive orders from any entity, including the government. She further said that it is fortuitous that the Paris Principles stipulate that such an institution should be established by constitution or law, because this reduces the possibility of arbitrary changes to the legal framework that could threaten the functioning or independence of the institution.

The representative of the Office of the Auditor and Ombudsperson of Israel, **Mr. Johnathan Marcovitch**, in his presentation, revealed the legal regulation of the institution he represents, stating that they enjoy full legal, financial, functional and technological independence. Regarding the latter, technological independence, he said that the institution has a separate Internet system from all other institutions and no one from outside can access it, considering this issue as an important element for independence.

Professor of Law and Expert for Ombudsperson Institutions, **Dr. Richard Kirkham** spoke about some practices of the states regarding the establishment of institutions, their independence as well as the challenges to remain independent. He added that the institutions of Ombudsperson and

NIHR are important to be strong and effective. Therefore, these institutions must be good at their work and conduct credible investigations, they must be prepared to be accountable to the public and to be tested, and to establish good relations with the community that supports parliament and civil society.

Former President of the Constitutional Court of the Republic of Kosovo, **Mrs. Arta Rama Hajrizi**, emphasized that during this conference many challenges and opportunities were discussed in building a strong, independent and impartial Ombudsman institution, but the main challenge remains the future and where we want to see these institutions in the regulation their constitutional and legal. It reiterates that it is indisputable that the preservation of independence is essential, not only because it is the only constitutional institution that acts as an intermediary between the government and the public, but also because the more independent and strong this institution is, the more great are the guarantees for transparency, accountability and the protection of the rights of individuals.

The Legal Advisor of the Venice Commission, **Mr. Taras Pashuk**, said that the Venice Commission, in its advisory role for national authorities, has systematically advocated not only for the establishment of Ombudsman institutions, but also for their inclusion in the Constitution, thus influencing the strengthening of independence, stability and their authority. In his speech, he focused more on the Venice Principles, which constitute the strongest

standards for Ombudsman institutions. 25 The principles of Venice reflect the requirement of a very high independence for these institutions, in particular for the guarantees regarding budgetary independence, which according to the principles of Venice, cannot be violated. As a guarantor of compliance with the Venice Principles, the Commission also has the opportunity to intervene in cases of serious threats to these institutions, because this issue is becoming a frequent and increasingly dangerous occurrence.

The reception organized at the National Museum of Kosovo for the participants of the 12th Meeting of the Association of Ombudspersons of the Mediterranean (AOM)



Under the patronage of the President of the Republic of Kosovo, Her Excellency Dr. Vjosa Osmani hosted a reception on the occasion of the 12th Meeting of the General Assembly of the Association of Mediterranean Ombudsperson (AOM), which was held in Kosovo for the first time.



In her address to the audience, President Osmani said that *"As a state and as a society, we have strongly embraced the ideals of human dignity, democracy and human rights, because no one understands the power of these values better than us."* She further called for us to stand united towards the advancement of human rights everywhere as a prerequisite for lasting prosperity and peace.

After the welcoming speeches by President Osmani, the Ombudsperson of Kosovo and the President of AOM, the participants accompanied by President Osmani took part in a visit inside the National Museum of Kosovo where they had the opportunity to see the important objects/artifacts that happened there and learn more much about the cultural heritage of Kosovo.

On the second day of the 12th Meeting of the Association of Ombudspersons of the Mediterranean (AOM), the General Assembly of this network was held.

In the framework of the general assembly, the members of the network elected Mr. Peter Svetina, Ombudsperson of Slovenia, as Vice President of AOM, the request of the Ombudsperson of the Lazio region for membership in AOM was approved, it was decided that the next Meeting and General Assembly will be held in Malta. It was also decided to exclude from the AOM network the Commissioner for Human Rights of Russia, because this institution has failed to act in the interest of human rights and has not based the criteria of integrity and independence in its actions .

In the end, the General Assembly also approved **The Prishtina Declaration**.

THE PRISHTINA DECLARATION

25 May 2023,
Prishtina, Kosova

We, the Institutions of Ombudspersons and Mediators, gathered on May 24-25, 2023 in Pristina, Kosovo, on the occasion of the 12th Meeting of the Association of Ombudspersons of the Mediterranean (AOM);

Reiterating that human rights are universal, indivisible and interdependent and that Institutions of Ombudspersons, Mediators and National Institutions of Human Rights (NIHRs) have an essential role in the human rights system;

Committed to the promotion of cross-border, regional and international cooperation, in order to effectively protect human rights and fundamental freedoms and determined to redefine the Mediterranean from a sea that divides us to a sea that unites us, as emphasized in the Declaration of Nafplion of AOM, October 5, 2021;

Recognizing that Ombudsperson Institutions constitute an integral part of democratic governments and have a decisive role in terms of the rule of law, the protection and promotion of human rights, but also the supervision of the efficient implementation of obligations and international standards for the rights of to man;

Acknowledging that integrity and independence are key principles that should guide the work of Ombudsperson Institutions, Mediators and National Institutions of Human Rights (NIHRs) and are also the foundations on which they should be built;

Recalling the United Nations Resolution on the role of Ombudspersons and Mediators Institutions in the promotion and protection of human rights, good governance and the rule of law, adopted by the UN General Assembly on 16 December 2020, as well as the principles related to the status of National Institutions for the promotion and protection of human rights (the Paris Principles) and the principles for the protection and promotion of Ombudsperson Institutions (the Venice Principles);

Expressing great concern for the challenging working conditions, threats and attacks that are being experienced by the Institutions of Ombudspersons and Mediators as well as their personnel, which constitute a real threat to the independence and effectiveness of these institutions as defenders of human rights as and the negative impact these have on human rights in general;

Knowing that the independence of human rights institutions cannot be guaranteed without adequate funding and infrastructure and that budget cuts can affect and undermine their independence and efficiency;

Dedicating the 12th Meeting of our Association to discussions on the following three issues:

- Independence as an essential element of an efficient Ombudsperson institution,
- Institutions of Ombudspersons under threat - challenges and opportunities,
- Maintaining the independence of Ombudsperson Institutions - the way forward.

We hereby declare as follows:

- AOM encourages its members to continue their efforts in the protection of human rights and fundamental freedoms in their respective countries and to pressure state actors to adhere to international standards regarding institutions independent human rights, especially in relation to response to threats and independence in carrying out their mandates.
- AOM requests all countries in the Mediterranean region and neighboring countries, within the framework of their mandates and responsibilities, to:
- provide a strong legal basis for the Institutions of Ombudsperson, preferably at the constitutional level, which guarantees their independence and provides them with the necessary tools to carry out their functions efficiently, both at the national level and at the international;
- ensure that the Institutions of Ombudsperson enjoy organizational, administrative and financial independence in the implementation of their mandates;
- refrain from any action aimed at or resulting in the violation of the integrity and independence of the Ombudsperson Institutions and from any threat to such institutions and their personnel;
- provide appropriate offices, sufficient financial and human resources to carry out their mandates;
- ensure that the process of appointing the Ombudsperson, his deputies and his staff is objective, based on merit and without any political interference;
- ensure the enjoyment of functional immunity from criminal prosecution, civil suit and dismissal due to spoken or written statements on the activities or decisions that are within the responsibilities of the Ombudsperson and his staff, which must also continue after the end of their term,
- to refer to international human rights standards, such as: the Paris Principles and the Venice Principles, when undertaking legislative reforms regarding Ombudsman Institutions.
- AOM draws the attention of international and regional human rights organizations, such as: OHCHR/GANHRI, Council of Europe, ODIHR, IOI and other regional networks, to raise their voice in support of strengthening Institutions of Ombudspersons, NIHRs and Mediators, in accordance with the Paris Principles and advocate in providing a favorable environment in which they can maximize their influence and sustainability in the performance of the mandate.

Agenda 2030 and Sustainable Development Goals - The Role of the Ombudsperson Institution as a National Human Rights Institution

The General Assembly of the United Nations approved on September 25, 2015, the 2030 Agenda for Sustainable Development, through Resolution A/RES/70/1, as a global action plan, with 17 objectives, with 169 specific targets, of to which 231 indicators correspond²⁷⁰.

The Assembly of the Republic of Kosovo, on January 25, 2018, has expressed the political will and readiness to engage in the implementation of this global framework, through Resolution No. 06-R-001, for the approval of the Sustainable Development Goals (SDGs). This was then followed by the establishment of the Council for Sustainable Development, in October 2018, as an inter-institutional mechanism within the Assembly, in the service of coordinating the processes towards the fulfillment of this Agenda.

The 2030 Agenda carries a universal vision accepted by states, which essentially places *population, prosperity, planet, peace and partnership (known as the five Ps)* as the pillars on which sustainable and real development rests. In addition, the 2030 Agenda is based on the principles of human rights, equality and non-discrimination and represents the commitment to eradicate poverty, inequality, the realization of human dignity and the promise not to leave anyone behind and to achieve first those who are left behind.

Since the Agenda presents a complex and multi-dimensional vision, it calls for all involvement and partnership in terms of knowledge, expertise, experiences, resources, and so on, so that progress can occur.

The objectives and goals of the 2030 Agenda are built on accepted human rights standards and integrate cross-cutting principles related to them. From a human rights perspective, approximately half of the SDG indicators have the potential to produce data that are directly relevant to monitoring specific human rights instruments, while the rest have indirect relevance or provide contextual and analytical information.²⁷¹

This connection of the Agenda with human rights is highlighted in the **Merida Declaration**²⁷² on the role of National Institutions of Human Rights (NIHR) in the implementation of the 2030 Agenda for Sustainable Development. There it is affirmed that the Agenda strongly embodies the Charter of the United Nations²⁷³, the

270 For more information see: The Sustainable Development Goal indicators website <https://unstats.un.org/sdgs/indicators/indicators-list/#:~:text=The%20global%20indicator%20framework%20includes%20231%20unique%20indicators>

271 For more, see: [https://www.humanrights.dk/what-we-do/sustainable-development-goals/sdgs-indicators-data#:~:text=Approximately%20half%20\(49%25\)%20of,enable%20or%20limit%20the%20realisation](https://www.humanrights.dk/what-we-do/sustainable-development-goals/sdgs-indicators-data#:~:text=Approximately%20half%20(49%25)%20of,enable%20or%20limit%20the%20realisation)

272 The Merida Declaration was adopted by the Global Alliance of Human Rights Institutions (GANHRI) at the 12th Conference of the International Coordinating Committee of National Human Rights Institutions (ICC), held in Merida, Yucatán, Mexico, on 8-10 October 2015. The focus of the Conference was on "Sustainable Development Objectives and the role of NIHR in this context. For more information on the role of NIHRs according to this Declaration, please see: <https://ennhri.org/our-work/topics/sustainable-development-goals/#:~:text=The%20M%C3%A9rida%20Declaration%2C%20adopted%20by,human%20rights%20and%20sustainable%20development>.

273 For more, see <https://www.un.org/en/about-us/un-charter>

Universal Declaration of Human Rights²⁷⁴, international treaties and instruments.

A part of these International Agreements and Instruments, the Republic of Kosovo has integrated into the Constitution (Article 22)²⁷⁵. However, the Ombudsperson draws attention to the fact that our country still does not have the International Covenant on Economic, Social and Cultural Rights included in the Constitution, a key instrument in terms of the enjoyment of human rights and a basic pillar for achieving the objectives and goals of the 2030 Agenda. Furthermore, both documents (the Convention in question and the 2030 Agenda) complement and strengthen each other, confirming the dimension of interdependence and universality of rights.

As for the Government's initiative and proposal for the inclusion of the United Nations Convention on the Rights of Persons with Disabilities and its inclusion in the country's Constitution, the Ombudsperson has considered it in the spirit of fulfilling recommendations over the years by the OIK and has given support to the same. In the comments submitted to the request of the Constitutional Court, the Ombudsperson emphasized that the inclusion of this Convention in the Constitution of the country: "*... in addition to the basic purpose, I will also contribute to the harmonization of the legal framework with the legislation of the European Union, which is one of the prerequisites for integration into the European Union and other international organizations*". AP appreciates the green light given by the Constitutional Court for this

Convention to be added to Article 22 [Direct Application of International Agreements and Instruments] of the Constitution, making it as such directly applicable in the country.

On the other hand, the fact that our country is not a member state of the United Nations, results in not reporting to treaty bodies, including the Human Rights Council and the Universal Periodic Review (UPR) process²⁷⁶. This inevitably affects the way of reporting at the level of mechanisms and processes for monitoring the implementation of international instruments and progress in this direction.

However, the OIK was founded and operates based on the Paris Principles²⁷⁷, which establish the basic standards of the status of national institutions for the protection of human rights. The existence and operation of these institutions in compliance with these Principles is a special indicator (Objective 16, indicator 16.a.)²⁷⁸ and confirms their importance at the international level.

Institutions of this nature, wherever they operate, **apply approaches based on human rights**²⁷⁹ throughout their work, in the exercise of their functions and powers and responsibilities. This approach is a conceptual framework based on internationally accepted standards, which seeks to place human rights and the relevant obligations of the state at the center of policies and other strategic documents.

In accordance with this approach, during the reporting year, the AP has approved the methodology framework for the measurement

274 For more, see <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

275 For more, see <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

276 The Universal Periodic Review is a unique process that involves reviewing the human rights records of all UN member states. As a process, it is state-led, under the auspices of the Human Rights Council, which provides the opportunity for each state to state what actions they have taken to improve the human rights situation in their countries and to fulfill their obligations their human rights. As one of the main features of the Council, the UPR is designed to ensure equal treatment for all countries when their human rights situations are assessed. The ultimate goal of this mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur. Currently, no other universal mechanism of this type exists. (information accessible at: <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>)

277 The Paris Principles, approved by UN General Assembly Resolution 48/134, dated December 20, 1993.

278 For more, see https://www.ohchr.org/Documents/Issues/HRIndicators/SDG_Indicator_16a1_Metadata.pdf

279 For more see: <https://ennhri.org/about-nhris/human-rights-based-approach/>

of Human Rights: *Development of indicators, together with a Model of the reporting style, as the basic form of the structure of the Reports issued by the OIK*, the drafting of which was done with the support of the UN Office for Human Rights/OHCHR representatives in Kosovo²⁸⁰, as a continuation of the support for the drafting of the Memorandum of Understanding between OIK and KAS, signed in January 2020²⁸¹. *The methodology framework* will serve as an internal document, which will be used to measure and evaluate human rights, with a consistent and objective approach to the implementation and progress of human rights²⁸² and open and dynamic on an ongoing basis, throughout daily work.

In this context, the PA considers it important to recall that based on the Resolution on the 2030 Agenda, it is the responsibility of the respective governments to monitor and evaluate progress in terms of achieving the objectives and targets. In the service of evaluating progress in human rights, to highlight inequalities, to ensure accountability and transparency, as well as to provide the necessary information for decision makers, qualitative, accessible, reliable data²⁸³, are necessary, in time and disaggregated.

The identification of relevant indicators, which are based on the guidelines on human rights indicators and **access to human rights-**

based data²⁸⁴, compiled by the Office of the OHCHR, is inevitable for the implementation of the 2030 Agenda. In this context, the AP recalls that the responsible and competent authority to direct the process for the development of indicators at the country level are the offices for national statistics, such as KAS, since they have knowledge of the available sources of data and they have knowledge of the main obstacles that must be overcome are addressed. However, the involvement of other key and relevant actors in this process is essential.

For the Ombudsperson, it remains essential to expand institutional interoperability, in terms of data collection, identification and measurement of indicators and the use of these data to monitor and measure progress or delays towards the realization of the SDGs. This is extremely important, to compare progress over the years. In this context, it remains challenging the fact that administrative data sources often have non-standardized methodologies and definitions with the criteria according to which KAS operates, so that they are reliable and disaggregated, to measure progress in the country, based on the local context. However, development in these segments attracts additional costs or reduced resources in other areas.

280 The support from the UN Office for Human Rights (OHCHR) representatives in Kosovo consists of a consultant engaged through two non-governmental organizations active in the field of human rights: YICHR and ACDC. Based on the communications developed, this support is expected to continue into the first part of next year. This includes translating the Methodology Framework into Serbian and English, as well as printing these translations in physical format.

281 At that time, OI and KAS received support from the Human Rights Office of the United Nations Mission in Kosovo and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva. This support included a workshop on "Operationalization of Human Rights-Based Access to Data and Indicators in Kosovo," which led to the creation, finalization, and signing of the initial Memorandum of Understanding on January 17, 2020 (for more, see link). In accordance with the Memorandum, a Working Group was established, whose proactive engagement resulted in the Methodology Framework for the Measurement of Human Rights: Development of Indicators.

282 The theoretical basis of this methodology is built on the Guide to the measurement and implementation of indicators of human rights of the Office of the High Commissioner for Human Rights of the United Nations (OHCHR) https://www.ohchr.org/sites/default/files/Documents/Publications/Human_rights_indicators_en.pdf The methodology includes a structured system on the development of quantitative and qualitative indicators, which help understand the human rights situation in the country, in a contextual, measurable way and objective.

283 For more see: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

284 The Full Guide: <https://www.ohchr.org/documents/issues/hrindicators/guidancenoteonapproachtodata.pdf>

The Ombudsperson reiterates that in order to respect and protect human rights and freedoms and progress towards achieving the objectives of the 2030 Agenda, there remains an open door and an address that has the will and commitment to fulfill the advisory and monitoring role, but also to serve as a bridge between rights holders and the state, regarding the design and monitoring of policies, strategies and actions. In this sense, it invites attention to the continuous addresses of the OIK to the responsible authorities, which focus on sensitive issues and vulnerable and neglected groups, which require immediate commitment, special measures or long-term solutions.

Communication with the public

The media play a special role in the work of the Ombudsperson Institution. For this reason, OIK attaches importance to maintaining contact with the media by providing them with timely answers to their questions as well as to their interest in various issues. The main objectives of the Ombudsman in cooperation with the media have been the protection and promotion of human rights, strengthening the public image of the OIK as a defender and advocate of citizens' rights; providing the necessary information about the mandate, responsibilities and work of the OIK. Media reporting on the work of the OIK has also contributed to its activities being transparent and efficient.

During 2023, based on media publications, the OIK has opened 12 cases for investigation according to official duty. On the other hand, many of our reports have found significant media coverage, which has helped raise public awareness of the issues that the Ombudsperson has recommended to public authorities through reports and opinions. Communication with the public is developed through media releases, social networks, the website and the appearance of the Ombudsperson in interviews, on television and radio shows, as

well as in debates, conferences and public meetings with various members of the public.

Local media have also followed the work and activities held in municipalities with civil society organizations and representatives of local institutions. Also, the visits and meetings of the Ombudsperson in the municipalities in the north of the country have aroused the interest of the media in the Serbian language, especially for the issues related to the respective municipalities.

Through a press release, the Ombudsperson condemned the physical violence that occurred in July 2023 during the session in the Assembly of the Republic of Kosovo. The Ombudsperson has called on the deputies of the Assembly of Kosovo to refrain from language that incites hatred and violence, and to take care to create an environment of respect, tolerance and constructive debate that helps fulfill the mission to represent the interests of the people and of the country.

During 2023, OIK has published 117 pieces of information, including communiqués and announcements on the official website, as well as distributed on social network accounts such as Facebook (Institucioni i Avokatit te Popullit), Instagram (@avokatipopulitrks) and Twitter (@kosombudsperson). Special activities have become known to the public, through the short news and photo gallery, which have been developed in different periods of the year.

OIK has broadcast the announcements on Radio Television of Kosovo about the organization of open days for citizens. Likewise, the local media have been contacted for such days but also for the organization of roundtables or debates, which have also covered these events.

The Office for Public Communication also handles requests for access to public documents. During the year 2023, OIK handled 12 requests. From the total number of requests, full access was allowed in nine requests, one request was rejected and one request was allowed with partial access. All requests were submitted via e-mail and responses were also sent via e-mail.

OIK budget

OIK is an independent institution which is financed from the budget of the Republic of Kosovo. According to the Law on the Ombudsman "OIK prepares its annual budget proposal and sends it to the Assembly of the Republic of Kosovo for approval".²⁸⁵ Yes, according to this legal provision, the necessary additional budget can be allocated to the OIK for the cases of increasing obligations and powers with this law and other laws, respectively additional relevant and adequate financial and human resources.²⁸⁶

OIK financing

The OIK, based on the legal procedures for the preparation and submission of the regular budget request, submitted its budget request for the year 2023 in June 2022 to the Assembly of the Republic of Kosovo and the Ministry of Finance, Labor and Transfers (MFLT), according to the legal deadline.

The budget request for the year 2023 by the Ombudsman has been prepared on the basis of planning the needs and work activities of the OIK for the calendar year 2023, based on the legal mandate and development strategy of the OIK.

The OIK budget for 2023, according to the Budget Law, has not been allocated according to the OIK budget request in the amount of €1,439,851.70, but has been allocated in the amount of €1,296,703.99, intended for these budget economic categories:

Salary and allowances in the amount of 992.703.99€;

Goods and Services of 289.000.00 €;

Municipal expenses in the amount of 15.000.00 €.

We will present the review of the state and flow of the OIK budget expenditures for 2023 according to the OIK budget request and in relation to the budget allocated according to the budget law for 2023, of the budget expenditures at the end of the fiscal year as well as in relation to the declaration of budget savings by the OIK and other budget cuts by Decision of the Government of the Republic of Kosovo, we will present it in tabular form and according to the data of the budget economic categories.

At the same time, the OIK must also present the separate and detailed financial report for the budget year 2023, for the Assembly of the Republic of Kosovo, on the basis of regular annual reporting according to the unified form for financial reports from independent institutions, as required by the Committee on Budgets and Finances of the Assembly of the Republic of Kosovo.²⁸⁷

More specifically, the following tabular presentation will reflect the budget of the OIK for 2023, starting with the budget request, with the initial budget of the Law on the Budget of 2023, the Declaration of budget savings by the OIK, the reduction of the budget of OIK at the end of the fiscal year with Decision No. 69/2023, dated 27.12.2023, of the Government of the Republic of Kosovo and the final budget for 2023.

²⁸⁵ Law on Ombudsperson, no. 05/L-019, Article 35, paragraph 3.

²⁸⁶ *Ibid.*

²⁸⁷ The detailed financial report for the OIK budget will be sent to the Assembly of the Republic of Kosovo, according to the unique form for financial reports.

Table 1: The OIK budget for 2023, according to the following data:

Economic Category	OIK budget request for 2023	The budget divided by the Budget Law for 2023	Declaration of savings from OIK 2023	Abbreviations by Government Decision, No. 69/2023, dated 27.12.2023	Final budget 2023
Salary and allowances	1.080.851.70	992.703.99	50.000.00	99.632.03	893.071.96
Goods and services	289.000.00	289.000.00	40.000.00	0.00	249.000.00
Municipal expenses	7.000.00	15.000.00	8.000.00	0.00	15.000.00
Capital expenditure	63.000.00	00	00	0.00	0.00
Total budget	1.439.851.70	1.296.703.99	98.000.00	0.00	1.157.071.96

Budget planning and budget spending for the year 2023 was carried out according to the planned needs and the destination determined to meet the needs and work activities of the OIK, which were in the interest of ensuring the exercise of the mandate, the smooth running of work and operation according to the OIK work plan.

However, regarding the non-spending of the budget for 2023, in relation to the planning of the budget and the allocation of the budget, as well as the final budget at the end of the fiscal year, international donations have also influenced through which the OIK provided the needs and activities of different types of work with high interest in the exercise of the mandate as well as the work plan for the year 2023 of the OIK. At the same time, OIK has not lacked internal monitoring and control in the most economical and effective use of the budget.

For the year 2023, according to the legal procedures, the OIK has also declared the budget savings for 2023 in the total amount of €98,000.00. However, only €40,000.00 was

withdrawn from the Ministry of Finance, Labor and Transfers from the Goods and Services category, but not the total amount of the declaration of budget savings, and not even for the declaration of savings from the OIK for salaries and municipal expenses. While the decision of the MFPT, at the end of the fiscal year, the salary budget in the amount of €99,632.03 was "withdrawn".

The final budget and realization of expenses for 2023

The OIK budget for the 2023 budget year was realized in the monetary amount of €1,089,447.37, or expressed as a percentage for 94.16%, according to the state of the final budget at the end of the budget year.

In the following table we present the state of the final budget in relation to the budget expenditures for 2023, according to the budget data of the economic categories expressed as a percentage both for the realized total of the budget and according to the budget economic categories.

Table 2: The final budget and realization of budget expenditures for 2023

No.	Economic categories	Final budget for 2023	Budget spent	Inexpensive tools	Realisation in %
1.	Salary and allowances	893.071.96	893.071.96	0.00	100.00%
2.	Goods and services	249.000.00	192.633.95	56.366.05	77.36%
3.	Municipal expenses	15.000.00	3.741.46	11.25.54	24.94%
4.	Capital expenditures	0.0	0.00	0.00	0.00
In total		1.157.071.96	1.089.447.37	67.624.59	94.16%

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